Justice

Family and Youth Access to Justice Committee

Final Report

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Saskatchewan

CONTENTS

I. Executive Summary 2

II. Introduction 5

III. Summary of Recommendations 7

IV. The Committee's Work 10
(A) Call and Information Centres 11
(B) Child Protection 15
(C) Court Models 20
(D) Aboriginal Inclusion 21
(E) Family Violence 24
(F) Family Justice Services 25
(G) Other Considerations: Youth Access 28

APPENDIX A: List of Committee Members 29
APPENDIX B: Family Justice Information, Service and Call Centre Model Working Group Report 30
APPENDIX C: Access to Justice Child Protection Working Group Report 41
APPENDIX D: Family Justice Services 51

I. EXECUTIVE SUMMARY

The Family and Youth Matters Access to Justice Committee ("the Committee") is one of three committees formed in response to a meeting of representatives of the Provincial Court and Department of Saskatchewan Justice in January 2006.[1] Over the course of its meetings, the Committee identified six core issues:

- the need for greater access to information and legal advice, particularly in rural and northern areas;
- concerns over the child protection process, the need for better access to early alternative case resolution in these matters and the representation of families and children;
- the Saskatchewan court model;
- Aboriginal inclusion;
- the impact of family violence on individuals, children and communities; and
- expansion of family law services.

Access to Legal Information

The Committee examined the current availability of information about family law and the justice system in the province, particularly in northern and rural areas, and expressed concern over the level of access to such information.

The Committee focused on family law call centres and Internet portals, which provide information, referrals and summary legal advice to eligible callers. The Committee also looked at family justice information and service hubs, which in other jurisdictions provide information, referrals to community services, alternative dispute resolution services and summary legal advice.

The Committee agreed that it is important to begin discussions toward the potential implementation of a province-wide justice call centre and Internet portal, which could increase access to family law information across the province, expand resources that are not dependent on literacy, permit one-on-one contact and individualized service, allow the provision of more summary legal advice and increase referrals to community service agencies and legal services.

Pilot family justice information and service hubs could also be looked at for northern and rural locations. Such hubs provide information, mediation services and referrals in-person, which could allow for more intensive identification of family law related problems and concerns, as well as providing the essential personal contact that is less widely available for legal aid clients in some parts of the province or for people who do not qualify for legal aid. Such hubs would also be flexible enough to permit their services to be delivered, perhaps through courtworkers with an expanded mandate, at circuit points in the North.

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[1] The others were: the Northern Access to Justice Committee; and the Unrepresented Litigants Access to Justice Committee.

The Committee, however, urged that any such initiatives require sound business plans that examine usage, location, cost and promotion issues. In particular, promotion of services to the public is a key to success. The Committee also indicated that summary legal advice should be a part of any such call or justice information centres, with recognition of all the attendant liability issues that this would raise.

Child Protection Matters

The Committee reviewed the existing child protection process. Members raised several issues, including the representation of children, the role of courtworkers, the process itself and the potential for alternative case resolution or therapeutic approaches. The Committee noted that the Manhattan Family Treatment Court could provide a useful model for therapeutic approaches in Saskatchewan.

The Committee found that the existing process requires better services at the front end to ensure that as many cases as possible reach a permanent resolution in a timely manner without going to a full trial, preferably through a therapeutic or other alternative approach.

The representation of children could be addressed through a menu of options for hearing the "voices" of children in child protection matters, including legal representation where appropriate in the circumstances of the case, independent assessments, mediation, structured interviews, Aboriginal conferencing or written communications, depending on the case. The Committee also discussed the representation of parents in child protection matters. The Committee found that models such as the Manitoba Child Protection Law Office Clinic should be studied at greater length.

It also noted that there could be a role for courtworkers in an expanded family law role, both as regards child protection matters and the dissemination of information through service centres.

Court Models

The Committee discussed the overall court model. While it made no recommendation for immediate change, it did note that the court model may have an impact on access to justice, as rural and northern areas may have a level of access in family matters different from larger urban centres. The Committee therefore endorsed the approach taken by the Northern Access to Justice Committee, that the province should study various court models in order to determine whether the justice system could be organized differently so as to increase access while retaining the rule of law and overall effectiveness and efficiency.

Aboriginal Inclusion

A Working Group met with representatives of Aboriginal organizations concerned with family law and determined that personal safety and family violence are crucial concerns that permeate most aspects of family law for Aboriginal people. The Working Group also identified key service concerns, such as the need to expand the courtworker mandate and to provide greater resources to support victims services, family justice services and family violence interventions. There is also a need to build on community capacity and improve communities' ability to respond to family violence and justice concerns, perhaps through the Saskatchewan Towards Offering Partnership Solutions to Violence ("STOPS") community first responder protocols.

Information is available, but people are not aware of it or are not able to access it. Greater care needs to be taken to ensure that Aboriginal people are able to access information safely, perhaps in multi-service centres, or places such as groceries and washrooms where it is less likely to "disappear", and that the information be in a format that can be easily used and accessed.

The Committee agreed with the Working Group's recommendation that Saskatchewan Justice work in conjunction with partner Aboriginal organizations to develop a forum to engage Aboriginal people and communities in the identification and resolution of access to justice concerns. Such a forum could include "dialogue sessions" between the justice system and the Aboriginal community, perhaps through facilitated sessions of 20-25 women and 20-25 men. These sessions would revolve around a paper to be developed by Justice and its partners that would outline the core issues and ask key questions. Justice sector personnel would be in attendance to clarify legal matters. Another option is to provide the opportunity for more of a community dialogue process based on existing networks such as MFCJS' with Métis communities.

Family Violence

There continue to be concerns over existing justice system victim safety interventions. The Committee noted that a study of the existing interventions, in particular Emergency Intervention Orders, could be undertaken to determine why they are or are not being sought by victims. The Committee also stated that first responder protocols are necessary in all parts of the province and that the work of STOPS on community protocols should be encouraged. As well, the issue of the acceptability of violence was raised and the Committee asked whether means could be found to make such violence socially unacceptable.

Family Justice Services

There needs to be a continuum of family justice services. The Committee indicated that there may be unequal access to services in certain regions of Saskatchewan and a lack of services in some parts of the province, particularly northern and rural areas. Services are especially necessary at the front end of the process. The Committee therefore supported

increased resources for existing services and an expansion of services into areas of the province that may not be currently as well served as the larger urban centres, particularly the North and rural areas.

Other Considerations: Youth Access

While the Committee recognized that it did not have the mandate or the membership to examine youth access issues fully, it noted that these issues are important, particularly in the context of child protection and the youth offender system. The Committee therefore recommended that the Provincial Court, Saskatchewan Justice and the Departments of Corrections and Public Safety and Community Resources create a forum to examine these issues.

II. INTRODUCTION

On January 13, 2006, representatives of the Department of Saskatchewan Justice and the Provincial Court of Saskatchewan met to discuss access to justice issues in response to concerns expressed by various partners in the justice system. This was followed by two meetings which included representation from the Court of Queen's Bench, Provincial Court and Saskatchewan Justice to prepare a list of issues and to develop an approach to understanding the issues and the approaches which could be taken to address them.

Three committees were created to examine various access issues: North/Rural; Family/Youth; and Self-represented Litigants. The membership of each committee included judges of the Provincial Court, justices of the Court of Queen's Bench, representatives of the Department of Justice, the Law Society of Saskatchewan, the Canadian Bar Association, the Saskatchewan Legal Aid Commission and other interested partners. The Family and Youth Access to Justice Committee included representation from the Department of Community Resources (see Appendix A for a full list of Committee members).

The Family and Youth Access to Justice Committee was asked to address the following issues:

- focus on or potential use of therapeutic approaches – resource and impact of therapeutic courts;
- improved integration of the family and youth courts;
- child representation issues in child protection proceedings;
- family representation in child protection proceedings;
- complexity/simplification of process;
- the need for enhanced family justice services – lack of public information in family matters and access to services;
- technology use issues;
- accessibility of counsel or services for family law matters;

- the role of specialization in family justice or expansion of the Family Law Division and the division of jurisdiction between the Court of Queen's Bench and the Provincial Court;
- greater use of mediation in family law matters; and
- the relationship between the Youth Justice Court and family courts.

Based on these issues, the Committee had the following terms of reference and mandate:

> *Terms of Reference*
> The Committee will focus on:
>
> - Determining priority areas for consideration from the above list or as defined by committee members; and
> - Justice system approaches that could address priority issues.
>
> A meeting of judicial and Justice department representatives on April 12, 2006, resulted in a large list of factors that may impact on our ability to provide equal access to effective court related services for all citizens.
>
> It was agreed that guiding principles are: access to justice for all citizens; and the need to respond effectively to the conflicts or problems that people have.
>
> *Mandate*
> The Committee will look for solutions and implementation strategies to address identified problems or issues. The mandate of the Committee is to arrive at recommendations for resolving issues that adversely impact on public access to court-related services.

The Committee began meeting in December 2006. The initial meeting defined the general topics and key issues that would be considered. Further meetings were held to refine the issues and begin to examine them in more detail. The Committee formed working groups to look at selected issues in greater detail and to refine the options.

The Committee determined that access to family justice is of profound concern in the delivery of justice services in Saskatchewan. Members of the public may be unaware of existing services, services may be unavailable, or may not be available in certain locations. The justice system and services, especially for some people in northern or rural Saskatchewan, may literally be a long way away. For others, the justice system may be a frightening or little understood entity.

Lack of access to information and justice-related services not only reduces the efficiency of the system as a whole, but may lead to public frustration with the justice system, the public's sense that the justice system is less relevant and also to a feeling that the justice system does not reflect cultural or geographic difference.

The Committee discussed these concerns and many others and has now drafted recommendations for new directions in the delivery of justice services in Saskatchewan.

In this Report we summarize the deliberations of the Family and Youth Matters Access to Justice Committee, the directions given by the Committee and its final recommendations.

III. SUMMARY OF RECOMMENDATIONS

(A) Call and Family Justice Information Centres and Service Centres (Hubs)

Recommendation 1.1

(a) The Committee recommends that the Province undertake development of a call centre and Internet portal upon completion of a feasibility study of the various call centre and Internet portal models. This feasibility study will be led by Saskatchewan Justice in conjunction with its partners, including the Provincial Court, the Court of Queen's Bench, the Saskatchewan Legal Aid Commission, the Law Society of Saskatchewan and the Canadian Bar Association.
(b) The Committee further recommends that this feasibility study include a full examination of the developmental and promotional challenges and costs involved in such an initiative, including:

- **the operational advantages and disadvantages of the proposed Options;**
- **potential users and levels of usage;**
- **how services could be matched to need;**
- **the appropriate host agency for such an initiative; and**
- **the resources necessary.**

(c) The Committee also recommends that a promotional plan be developed to ensure optimal usage of the services described above.
(d) The Committee recommends that this discussion include an analysis of the potential for expanding public telephone services in the North.

Recommendation 1.2

The Committee recommends that the Province support the development of pilot Family Justice Information and Service Centre hubs in select northern and rural locations, based on completion of the feasibility study and examination of the developmental and promotional challenges and costs described in recommendation 1.1 above.

(B) Child Protection

Recommendation 2.1

The Committee recommends that the Province, as part of the planned larger review of current child protection legislation, with the Department of Community Resources as lead agency begin discussions with the Provincial Court, the Court of Queen's Bench, Saskatchewan Justice, the Saskatchewan Legal Aid Commission,

the Law Society of Saskatchewan, the Canadian Bar Association and other stakeholders towards the development of a menu of options for the representation of children in child protection matters, including issues such as the development of service capacity and criteria for the appointment and training that this menu would require.

Recommendation 2.2

The Committee recommends that the Department of Community Resources, in conjunction with the Provincial Court, the Court of Queen's Bench, Saskatchewan Justice, the Saskatchewan Legal Aid Commission, the Law Society of Saskatchewan, the Canadian Bar Association and other stakeholders, undertake an analysis of mediation, Aboriginal conferencing and therapeutic or therapeutic approaches as a part of improving access to justice in child protection matters. These approaches could include a community based approach modelled on the Manhattan Family Treatment Court that would permit the focusing of issues on a community basis.

Recommendation 2.3

The Committee recommends that consideration be given by Saskatchewan Justice to expanding the mandate of the Aboriginal Courtworker Program in Saskatchewan to include family matters, or at least child protection matters, with an emphasis on rural and northern locations, and that sufficient resources be provided to support piloting such an expanded mandate.

Recommendation 2.4

The Committee recommends that the Departments of Saskatchewan Justice and Community Resources explore ways that those who work with *The Child and Family Service Act* may regularly be brought together to consult, identify current issues and develop a more uniform response to those procedural issues that may act as barriers.

(C) Court Models

Recommendation 3.1

A review of court models should be undertaken involving the Province, the Provincial Court and Court of Queen's Bench to determine options for enhancing access to courts in remote locations.[2]

[2] This review will mirror, where appropriate, the review being recommended by the Northern Access to Justice Committee.

(D) Aboriginal Inclusion

Recommendation 4.1

The Committee recommends that Saskatchewan Justice work with representatives of Aboriginal organizations to develop a forum to engage the Aboriginal community in identifying issues and developing solutions to access to justice concerns.

(E) Family Violence

Recommendation 5.1

The Committee recommends that the Province and its partners continue to support the development of first responder protocols throughout the province.

Recommendation 5.2

The Committee recommends that Saskatchewan Justice study the use or under-use of legislative remedies and services provided by or in conjunction with the justice system, including victims services, that are part of current responses to family violence to identify gaps and more effective interventions.

(F) Family Justice Services

Recommendation 6.1

The Committee recommends that the Province increase its support for family justice services, especially for front-end services, particularly in northern and rural areas of Saskatchewan that have limited access to such services. Increased services could include:

(a) Expanded mediation capacity;
(b) Enhanced civil family legal aid capacity, including analysis of the Manitoba Child Protection Law Office Clinic model and civil duty counsel for family court;
(c) Expanded Aboriginal courtworker mandate (see Recommendation 2.3);
(d) Improved processes to ensure access to self-help kits, and assistance in completing these kits, to assist in initiating court processes;
(e) Enhanced access to support variation services and enforcement services of the Maintenance Enforcement Office/Family Justice Services; and
(f) Continued simplification of family law forms and the language of court orders, perhaps through the development and use of standard clauses.

(G) Other Considerations: Youth Access

Recommendation 7.1

The Committee recommends that the Provincial Court and the Departments of Saskatchewan Justice, Corrections and Public Safety and Community Resources design a forum to review access to justice issues affecting youth, particularly youth involved with child protection and youth corrections.

IV. THE COMMITTEE'S WORK

Jurisdiction and location affect access to family justice in Saskatchewan. Major urban centres have access to services and informational resources that rural and northern locations may not have. There is often no public telephone access in northern communities, while connection to the Internet is growing, but still not universal. Information from other sources may be difficult to track down. For those individuals who are eligible for legal aid services, or who can afford to secure legal counsel, in-person legal advice may not be readily available; for others, legal counsel may be too costly to secure. There are, in addition, cultural and other barriers to access to family law services for some communities, particularly Aboriginal communities.

The Saskatchewan court model has a Unified Family Court in the three major urban centres of Saskatoon, Regina and Prince Albert, while access to family law processes in many rural and northern locations is more challenging. Custody and access and divorce matters are obviously only heard at Queen's Bench locations. Maintenance applications and child protection matters may be heard in Provincial Court and circuit locations, though these matters may not be heard as often in Provincial Court as they could be. Full family law related services, however, are not always available in rural and northern locations. Child protection poses particular challenges for judges of the Provincial Court in rural and northern locations where services may not be developed and the process is not streamlined.

From the outset of its deliberations, the Committee focused on a number of key issues, including:

- the need for greater access to information and legal advice in rural and northern areas;
- concerns over the child protection process, the need for better access to early alternative case resolution in these matters and the representation of family and children;
- the Saskatchewan court model;
- Aboriginal inclusion;
- the impact of family violence on individuals, children and communities; and
- the availability of family justice services.

Committee members identified the importance of engaging the community in any solution to the above concerns. Each community is different, and each has different needs.

(A) Call and Family Justice Information Centres and Service Centres (Hubs)

Background

The Committee examined the availability of information concerning family law and the justice system in the province, particularly in northern and rural areas, and identified some areas of concern. The more widely available such information is, the less mysterious the justice system's processes are likely to be to members of the public. Where such information is lacking, members of the public may be less able to determine how to resolve their family law concerns through justice processes, or they may misunderstand the remedies available to them, which may reduce the public's trust in the justice system. It may also reduce the system's efficiency, as parties may then not always respond to or initiate processes in a timely manner, which causes strain on children, interested third parties, parents and any other individuals that family law processes affect.

While there are written informational materials available through the Public Legal Education Association of Saskatchewan (PLEA) and other organizations, lower functional literacy rates in some communities makes the provision of solely written materials problematic. In addition, written materials may not be evenly available across the province. Telephone and Internet connection rates and availability pose other problems, with some communities much better served and some groups of people more likely to be able to afford such services than others. Internet use may be rising across Saskatchewan, but family justice resources on the Internet are scattered across many websites and are often difficult to find.

There is already a call centre in Saskatchewan, the Family Law Information Centre. It has a toll-free number that can be reached from anywhere in the province. The Centre is also able to receive fax and email inquiries. The Centre does not provide legal advice, though it will assist anyone and has no eligibility criteria. It supplies self-help kits to help clients fill out family law applications and court forms for those who wish to represent themselves. The Centre often helps litigants fill out the kits (for a complete list of self-help kits available through the Centre, please see Appendix D). If the Centre is unable to answer a question, the client is referred to another government department or agency, legal or community service.

The Saskatchewan Legal Aid Commission has a *Brydges* Line, which permits it to provide legal advice to any arrested or detained person, whether that person is eligible for legal services or not, 24 hours a day and seven days a week. In addition, the Legal Aid Commission has a website. This website contains information areas for clients, lawyers and staff, as well as links to other relevant Internet resources. In 2003, a Client Satisfaction Project Report prepared under the direction of the Legal Aid Commission

found that "at least a third of clients have used the Internet and that more than a third of those who have not would be willing to use it". The website is heavily used – between October 2005 and March 2006, an average of over 3,000 unique visitors per month and 9,000 "page views" were recorded, with a high of 3,716 unique visitors in March 2006.

Options

The Committee's discussions led to an examination of information and call centres for Saskatchewan. A working group looked at the issue and provided a short paper describing options (see Appendix B). The Working Group laid out three incremental options, together with potential costs, that built upon each other:[3]

1. call centre and Internet portal;
2. pilot Family Justice Information and Service Centre "hubs" in two northern and one rural location, with a call centre and Internet portal; and
3. "hubs" all over the province, with call centre and Internet portal.

Call Centre and Internet Portal

A call centre could provide some level of legal advice and could be partnered with an Internet portal to provide a flexible approach to information and referral delivery. It could be modelled on the British Columbia and Alberta call centres.

The B.C. provincial government introduced LawLine and LawLink to offset, at least partially, a reduction in civil legal aid services. The B.C. LawLine call centre uses the services of paralegals and lawyers who handle calls directly in rotation. At the initial stage, the paralegal or lawyer provides the caller with justice system information and determines whether a caller requires legal services. If the caller is then found to require and to be eligible for legal services, he or she may be directed to a LawLine lawyer for legal advice at one of the two levels of legal service.

LawLink is an Internet portal that summarizes materials available on the web and provides links to justice related websites. Legal Information Outreach Workers are available to help members of the public use LawLink by telephone. Free public access computers in legal aid offices, courthouses and some other locations are a part of the LawLink program.

The Alberta AtLAS call centre, initiated in early 2005, was a conscious effort to expand and enhance legal aid services to Albertans. Calls go first to paralegals, who provide information and determine the nature of the problem. Paralegals then determine whether the call should proceed to a lawyer. A staff lawyer may provide "brief" legal advice of up to 15 minutes, which could be extended for a further 15-20 minutes. Of 1,000 calls in AtLAS' second month, 600 were referred to a lawyer. Of 1,500 calls taken in March 2005, 900 were referred to a lawyer. Fifty per cent of calls took longer than 15 minutes.

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[3] It is not yet clear what relationship, if any, such a call centre and Internet portal would have with existing services. This will form part of the analysis described in the recommendations.

Family Justice Hubs

Most Canadian jurisdictions have family justice hubs in one form or another. British Columbia's Family Justice Centres and Ontario's Family Law Information Centres are the most comprehensive and widespread. Though each is differently organized, family justice hubs in Canada all provide similar services, including information, summary legal advice, access to mediation and other alternative dispute resolution services. They act as hubs for information and referrals to community based and legal services. All such hubs in Canada are agencies of a provincial department of justice or attorney general.

There are also family law centres in other countries. Some Australian programs are similar to those in Canada, and act as information and referral hubs. Other Australian family law centres concentrate on providing mediation services to families. Family Justice Centres in the United States and United Kingdom deal exclusively with support services, referrals and information for victims of domestic violence.

In Canada, family justice hubs have three key advantages:

- information and referrals are provided in person, rather than over a telephone line or through print;
- mediation services may be provided at the hub location; and
- they are flexible and could permit a "virtual" hub to travel (in the form of a courtworker, for example) to circuit locations with a court party, hence reaching points that may have more limited access via telephone or web service.

Family justice hubs in other jurisdictions generally do not provide summary legal advice, though a pilot version of such hubs in Saskatchewan could potentially do so.

Committee Directions

The Committee decided that initial discussions should focus on a feasibility analysis, the drafting of a business plan and subsequent potential development of a provincial family law call centre and Internet portal. This would allow for province-wide access and could be built on from there. A call centre and Internet portal could:

- build on existing resources and expertise;
- increase access to family law information across the province;
- expand resources that are not dependent on literacy;
- permit one-on-one contact and individualized service;
- potentially allow the provision of more summary legal advice; and
- increase referrals to community service agencies and legal services.

The appropriate agency to host such a call centre and Internet portal would have to be determined as part of implementation discussions, including whether it should be built on the existing service or perhaps housed in the Saskatchewan Legal Aid Commission. The Committee felt strongly that any call or information centre should probably consider some capacity for summary legal advice.

Discussions to consider hub pilots could follow these initial talks. As noted above, hubs have several advantages over call centres. The in-person quality of hubs could be extremely effective in some parts of the province, particularly those areas where it is difficult for clients to have personal contact with their lawyer, as well as for those who do not qualify for legal aid. Hub personnel could travel to circuit locations with the court parties. Hubs might allow clients to work through their problems and define their family law issues more intensively than would a call centre and Internet portal alone. They could also provide mediation services. In addition, hubs could improve access to family justice in areas where it may be most needed and target populations most in need of additional information, referrals and advice.

Promotion will be the key to any initiative's success. The Committee noted the importance of finding out how British Columbia was able to promote the use of its call and family justice information centres. Success in northern Saskatchewan is a particular challenge, given the lack of understanding about the justice system that has been noted in various consultations with Aboriginal people and other northerners. The Committee noted the need for a business plan that captures the potential need, the volume of expected clients and a plan for promoting the use of such services.

The provision of legal advice raises liability issues. Saskatchewan should consult with British Columbia to see how that province addressed liability concerns. There may also be a need to change current legislation or design eligibility criteria to permit the call centre to dispense summary legal advice.

Concerns were also expressed over culturally relevant services, and hence the hiring of staff who speak Aboriginal or other languages where necessary. There may also be other cultural considerations that need to be considered. As well, in many northern locations, the family law hub would need to be housed in a multi-service centre, where services could be accessed more safely.

In addition, the Northern Youth Strategic Action Plan contains a recommendation concerning the provision of telephone service in the North. At present, SaskTel does not provide public telephone service in many northern communities due to the costs associated with maintaining phones and phone lines. This is a concern that may need to be addressed as part of the development and implementation of any province-wide call centre in order for such a centre to achieve its goals.

Recommendation 1.1

(a) The Committee recommends that the Province undertake development of a call centre and Internet portal upon completion of a feasibility study of the various call centre and Internet portal models. This feasibility study will be led by Saskatchewan Justice in conjunction with its partners, including the Provincial Court, the Court of Queen's Bench, the Saskatchewan Legal Aid Commission, the Law Society of Saskatchewan and the Canadian Bar Association.
(b) The Committee further recommends that the Province's feasibility study include a full examination of the developmental and promotional challenges and costs involved in such an initiative, including:

- **the operational advantages and disadvantages of the proposed Options;**
- **potential users and levels of usage;**
- **how services could be matched to need;**
- **the appropriate host agency for such an initiative; and**
- **the resources necessary.**

(c) The Committee also recommends that a promotional plan be developed to ensure optimal usage of the services described above.
(d) The Committee recommends that this discussion include an analysis of the potential for expanding public telephone services in the North.

Recommendation 1.2

The Committee recommends that the Province support the development of pilot Family Justice Information and Service Centre hubs in select northern and rural locations, based on completion of the feasibility study and examination of the developmental and promotional challenges and costs described in recommendation 1.1 above.

(B) Child Protection

Background

While the number of new child protection cases has been falling in recent years, children are in care for longer periods and it is taking longer for a permanent solution to be worked out in individual cases. Family reunification has become the goal less often than finding another permanent arrangement. The longer time it now takes to reach such a permanent arrangement, and hence the longer period that children are long-term wards, has an effect on their overall development.

Child protection matters may be heard in the Court of Queen's Bench or the Provincial Court. The Court of Queen's Bench may hear more such matters than the Provincial Court in most parts of the province and has exclusive jurisdiction in locations served by the Unified Family Court. The Court of Queen's Bench has therefore developed procedures, forms and processes that streamline the overall process. Timeliness of child

protection matters is therefore less of an issue in the Court of Queen's Bench than in Provincial Court.

The Committee expressed several concerns over access to justice in child protection matters, including:

- data needs;
- representation of children and families;
- role of courtworkers;
- equitable access and process;
- timeliness;
- the dual role of child protection workers; and
- mediation/therapeutic model/talking circles.

Marvin Bernstein, the Children's Advocate of Saskatchewan, spoke to the Committee about the rights of children and the need for legal counsel to represent children in child protection matters. The Committee listened to the Children's Advocate's views with great interest and reflected them where consistent with the Committee's overall approach to these issues.

Child and Family Service Subcommittee

The Committee struck a subcommittee to look at child protection issues. The Subcommittee focused on the key issues of representation, alternative case resolution and therapeutic approaches. The Committee felt that other issues, particularly the dual role of child protection workers, were outside of its mandate. The Subcommittee therefore concentrated on representation issues, alternative case resolution and therapeutic approaches.

i. Representation of Children and Families

The Children's Advocate Office and others have raised concerns over the representation of children in child protection matters, as well as other family law proceedings that affect children, in the context of Article 12 of the *Convention on the Rights of the Child*. While legal representation may be necessary for children where appropriate in the circumstances of a case, and considering that it may be beneficial to their development to have children's voices heard and acted upon where appropriate in matters affecting them, the Subcommittee recommended the formulation of a menu of responses to give a "voice" to children in child protection proceedings (see Appendix C). This "menu" of responses could include the following:

1. **Legal Counsel (for child)**: to represent a child's views where appropriate based on criteria to be developed in consultation with relevant partners, such as the Department of Saskatchewan Justice, the Department of Community Resources, the Canadian Bar Association and the Law Society of Saskatchewan, and representatives of the Provincial Court and Court of Queen's Bench. It should be noted that the other menu options described below are not substitutes for legal

representation. Rather, these options may either supplement legal representation or be employed where legal representation for a child is not appropriate in a particular case based on the criteria to be developed by the group described above.

2. **Mediation Process**: Process designed to include children as part of family mediation, founded on the as yet unused mediation provisions in section 15 of *The Child and Family Service Act*.

3. **Aboriginal Conferencing Model**: There are many options for Aboriginal conferencing models. One that has been used with some success in Saskatoon is the Opikanawasowin ("Opik") model, in which the court adjourns a hearing under s. 34 of *The Child and Family Service Act* and issues an interim order under s. 35 that defines the court's expectations of the general parameters and time frame of the process. The matter is then referred to a council of three Aboriginal Elders, who guide the process. Elders are selected from lists provided by the Aboriginal and Northern Initiatives Branch of Saskatchewan Justice or by the Saskatchewan Indian Cultural College in Saskatoon. Elders from the home community may attend the Opik, but may not sit on the council. Once the Opik is completed, the court may incorporate the recommendations, if any, of the Elders in a further order.

4. **Structured Interviews**: In the Kelowna structured interview pilot project model, if all parties consent, a trained interviewer (some are lawyers, others counsellors) is chosen from a roster to sit down with a child that is going through a custody and access proceeding and record, in a structured manner, the child's answers to a set of questions. These answers may then be submitted to the court in the form of a report. The pilot project in Kelowna is being evaluated currently by the International Institute for Child Rights and Development. This model would have to be adapted to be made more appropriate for use in child protection matters.

5. **Independent Assessments**: There are several potential models for independent assessments, including a version of Saskatchewan's Children's Voices Reports modified for use in child protection matters. Children's Voices Reports are based on interviews with the child or children as part of access and sometimes custody proceedings. Trained social workers perform the interviews, which are then turned into short, summary reports of five to ten pages that are presented to the court. These reports contain suggestions but no recommendations. They provide the court with certain information about the children, such as their wishes, fears and any problems they may be having with the separation.

   The format would be altered for use as part of a child protection matter, as the Reports do not look at intergenerational issues, do not include family assessments and there is no direct discussion of abuse or witnessing violence. Children may also be more emotionally vulnerable in child protection situations and hence appropriate counselling may need to be in place for the child after making a Report. In addition, the appropriate agency to interview children and prepare

reports would have to be established, as there could be issues connected with potential conflicts of interest, costs and volumes of cases.

6. **Judicial Interviews**: Provided for in *The Child and Family Service Act*, s. 29(1)(b). Judges in several jurisdictions already interview children regularly, usually outside of court. The judiciary has expressed concerns, however, over interviewing children away from other parties and also over the expertise needed to work with children in such sensitive and potentially traumatizing circumstances.

7. **Written Communications**: An independent, trained social worker or other qualified person would assist a child to write to the court concerning the child's views. Criteria for the use of written communications would need to be developed through discussions with the relevant parties. It is unclear whether this would be effective or under what circumstances such an approach would be appropriate, though written communications have been used in some circumstances in the past.[4]

The Subcommittee also noted that there is a need to think about legal representation for children and families. The Manitoba Child Protection Law Office Clinic, which includes legal and social work staff on site, was raised as a potential solution to representation issues for parents. The Committee also addressed the potential expansion of the courtworker model to family matters. Some jurisdictions already have courtworkers who deal with some family matters.

ii. Alternative Case Resolution

Many participants in child protection matters find the adversarial trial process uncomfortable. Mediation at an early stage of proceedings may be beneficial. Mediation could be rolled out as contemplated in s. 15 of *The Child and Family Services Act* of Saskatchewan. An Aboriginal conferencing process, perhaps based on the Opik model (see above), may also be effective at handling certain cases. Building partnerships, rather than proceeding through the adversarial court process, may be an appropriate way to proceed in many cases. This could help resolve problems within communities and potentially be less disruptive than the adversarial method.

iii. Therapeutic Approaches

The Committee noted that a more therapeutic approach to child protection matters may be beneficial, though this would require a consistency of approach across the province and increased resources for therapeutic services.

Therapeutic courts require large resources and definition of the problem(s) that they wish to address. The Subcommittee mentioned the Manhattan Family Treatment Court as a

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[4] See *Baker* v. *Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, 174 D.L.R. (4th) 193 (S.C.C.).

relevant model that could be examined further. The Manhattan Family Treatment Court model includes the development of a case plan for each matter. A case manager oversees the family plan, brings in child welfare resources and organizes family group conferences or mediation if considered appropriate for any particular plan. The case manager also performs an analysis of parents and foster parents to try to achieve a permanent arrangement for children as quickly as possible.

Committee Direction

The Committee was supportive of the Subcommittee's approach. It is premature, however, to roll-out any of the above suggested responses, as discussions need to be undertaken to advance these ideas and develop full implementation plans. The Committee therefore recommends that the Province and its partners, as well as representatives of the Provincial Court and Court of Queen's Bench, discuss the potential for adoption of:

- a menu of options for representing the voices of children;
- options for representing families;
- therapeutic approaches to court processes; and
- alternative case resolution models.

Recommendation 2.1

The Committee recommends that the Province, as part of the planned larger review of current child protection legislation, with the Department of Community Resources as lead agency begin discussions with the Provincial Court, the Court of Queen's Bench, Saskatchewan Justice, the Saskatchewan Legal Aid Commission, the Law Society of Saskatchewan, the Canadian Bar Association and other stakeholders towards the development of a menu of options for the representation of children in child protection matters, including issues such as the development of service capacity and criteria for the appointment and training that this menu would require.

Recommendation 2.2

The Committee recommends that the Department of Community Resources, in conjunction with the Provincial Court, the Court of Queen's Bench, Saskatchewan Justice, the Saskatchewan Legal Aid Commission, the Law Society of Saskatchewan, the Canadian Bar Association and other stakeholders, undertake an analysis of mediation, Aboriginal conferencing and therapeutic or therapeutic approaches as a part of improving access to justice in child protection matters. These approaches could include a community based approach modelled on the Manhattan Family Treatment Court that would permit the focusing of issues on a community basis.

Recommendation 2.3

The Committee recommends that consideration be given by Saskatchewan Justice to expanding the mandate of the Aboriginal Courtworker Program in Saskatchewan to include family matters, or at least child protection matters, with an emphasis on rural and northern locations, and that sufficient resources be provided to support piloting such an expanded mandate.

Recommendation 2.4

The Committee recommends that the Departments of Saskatchewan Justice and Community Resources explore ways that those who work with *The Child and Family Service Act* may regularly be brought together to consult, identify current issues and develop a more uniform response to those procedural issues that may act as barriers.

(C) Court Models

Background

While there is a Unified Family Court in Saskatoon, Regina and Prince Albert, there is no unified court in the North, rural areas or smaller centres. The Provincial Court may hear many family matters, particularly child protection and maintenance applications, but is not permitted by statute or law to hear a wider set of family proceedings. As well, support applications may often be linked to custody and access, matrimonial property or *Divorce Act* matters which lie outside the jurisdiction of the Provincial Court. Applications to Queen's Bench may be more costly and more difficult to engage because of the distances between remote northern and rural areas and the nearest Queen's Bench location.

The current court model in Saskatchewan may therefore have some impact on access to justice in family matters. In the North and rural areas the Provincial Court's jurisdiction poses limits on the types of matters that may be heard locally. However, the Committee also indicated that there may be reasons why people choose not to access the justice system through their local court point, including:

- the local court point may not be a convenient location for counsel;
- the local court point may not be a convenient location for both parties; and
- it may be embarrassing for some litigants to commence an action near to home.

The Committee also noted that the split between criminal and family jurisdictions may have an impact on youth issues.

Committee Direction

The Committee agreed with the Northern Committee's approach to court models. There are several models that may address some or all access concerns connected with the court process itself.

The Committee noted that there is a necessity to reflect youth issues in any discussion of court models, as there is overlap between youth criminal and child protection matters. It may help resolve criminal matters to deal with the underlying family concerns. The extent of the crossover cannot be specified; more research would help.

The Committee felt that therapeutic approaches across the range of issues may help address family concerns while also addressing underlying criminal factors. The Committee endorsed the Northern Committee's approach to canvas the full range of options. The Northern Access to Justice Committee's Final Report contains a full discussion of this range of options.

Recommendation 3.1

A review of court models should be undertaken involving the Province, the Provincial Court and Court of Queen's Bench to determine options for enhancing access to courts in remote locations.[5]

(D) Aboriginal Inclusion

Background

There are historic, cultural, linguistic, informational and geographic barriers to access to justice for Aboriginal people and communities in Saskatchewan. As noted by the Commission on First Nations and Métis Peoples and Justice Reform:

> The Commission agrees with the many people who have said the justice system is foreign to the beliefs, traditions and hearts of First Nations and Metis people. The Commission also agrees that the system of courts and corrections was imposed upon First Nations and Metis people without their participation. We also agree that there are many legal issues to be settled regarding the Aboriginal and Treaty rights of First Nations and Metis people that deal with justice and self government. As we heard repeatedly, doubt and mistrust is widely felt.
>
> > The current justice system is not trusted or respected by many First Nations people because First Nations have had no say in its creation, no say in the development of policies or laws. First Nations have had to endure attitudes of the practitioners and more than any other group of people we are disproportionately affected by the system.

[5] This review will mirror, where appropriate, the review being recommended by the Northern Access to Justice Committee.

> In terms of values, the use of the adversarial approach to resolving differences in the justice system creates winners and losers. This approach clashes with the concepts of First Nations' justice, which emphasizes the restoration of social harmony in the community. Social harmony requires the building and maintaining of strong family and community relationships. (Speaker, FSIN Health and Social Development Secretariat presentation)[6]

Committee Direction

The Committee noted the importance of Aboriginal inclusion in any attempt to address access to justice in family and youth matters. Increased information resources, improvements to the child protection process to make it less adversarial and discussions of appropriate court models (see above) may well address some barriers to access for Aboriginal people. The justice system, at the same time, may be more likely to engage with Aboriginal people to design solutions to their concerns.

The Committee indicated that this last point is of great concern. The justice system needs to reach out to Aboriginal people and communities to engage them in ongoing attempts to reduce barriers to access. A process needs to be developed that will allow Aboriginal people and communities and those within the justice system to work on the common resolution of access problems.

The Committee reviewed two recent surveys of Aboriginal women initiated by Saskatchewan Justice. The first consultation (2004) included a small group of women from across the province who were attending a conference sponsored by the Status of Women Office. These women indicated that they did not have access to the information that is out there and little knowledge of available services. They indicated that, for them, family violence is the number one issue and that there is not enough information available on this issue (e.g. who to phone, what could be done for them).

The second report had a larger number of subjects, and was led by the Saskatchewan Aboriginal Women's Circle Corporation (SAWC). It involved over 40 women. They expressed concerns similar to those found in the first report. They also indicated a certain level of distrust and fear of the justice system due to criminal and child protection involvements.

Working Group Discussions and Recommendation

The Committee asked a working group to examine ways in which the Aboriginal community could be engaged. This Working Group met with representatives of Métis Child and Family Justice Services (MFCJS) and SAWC. The Working Group also spoke with a representative of the Federation of Saskatchewan Indian Nation's Women's Council (FSIN – WC).

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[6] Commission on First Nations and Métis Peoples and Justice Reform, *Legacy of Hope: An Agenda for Change, Volume One, Final Report from the Commission on First Nations and Métis Peoples and Justice Reform* (Regina: the Commission, 2004) at 6-3.

The participants identified personal safety as the key issue for Aboriginal people involved in family law court processes. Family violence affects every aspect of family law in the North. For example, family law information must be packaged and conveyed in such a way that it may be accessed surreptitiously and then hidden, in order to reduce the potential danger that accessing it may pose.

i. Information

While the participants felt that a call centre, Internet portal and information "hub" were good ideas, they indicated that other sources of information are already available but are not being accessed by Aboriginal people. This is because information sources, whether print or web-based, are not easy to access safely and print materials cannot always be hidden easily and read surreptitiously. In addition, too often print materials "disappear" from band offices or other locations where they are traditionally placed. The participants indicated that groceries, washrooms, health centres, Community Action Programs for Children (CAPCs) and other multi-service centres may be better locations for information materials, as they are less likely to "disappear" and may be consulted more safely. Such information also needs to be in a format that can be accessed and used easily. Other ways of providing information, such as call centres or radio spots, may be useful.

ii. Services

The Working Group identified several important service issues. Courtworkers are stretched by levels of demand and hence more additional courtworkers are required. While there may be capacity to add to courtworker duties where positions are currently part-time, this was not seen as feasible for the larger centres and existing full-time positions. Additional resources would be needed to pilot any expansion of courtworker duties. There was agreement that the courtworker was a reasonable position to look at to explain the court process in child protection matters or to provide support in court to the family. The participants were also supportive of expanding the supervised access program to pilot points in larger centres, as well as increased parent education resources.

iii. Community Engagement

The participants also indicated that local citizens could play an important role in the delivery of justice services and the identification of justice problems. This could be done through existing programs and/or expanded CAPC services. Other options for community delivery of services were noted, such as Community Justice Committees – which, it was suggested, need to be expanded to all Aboriginal communities – and Community Justice Workers. As well, the potential role for Aboriginal Justices of the Peace in delivery of information or programming was raised.

The Working Group recommended, and the Committee agreed, that a forum for "dialogue sessions" of some kind is essential. One option for delivery was workshop sessions: one session of perhaps 20-25 women; one of 20-25 men. Elders could

participate in both sessions. The sessions could last over 1-2 days and would require facilitators and the participation of people with legal knowledge. Another option is to provide the opportunity for more of a community dialogue process based on existing networks such as MFCJS' with Métis communities. There was agreement that these sessions would be built around a discussion document and key questions that would be reported back on. This document would focus discussion. It potentially could be developed in association with SAWC, MFCJS and FSIN - WC and involve Aboriginal people from across Saskatchewan. Justice personnel would support these sessions in order to clarify concerns and answer questions about the justice system and related legal matters.

Recommendation 4.1

The Committee recommends that Saskatchewan Justice work with representatives of Aboriginal organizations to develop a forum to engage the Aboriginal community in identifying issues and developing solutions to access to justice concerns.

(E) Family Violence

Background

Family violence is a huge concern, particularly in some locations and in some communities. According to the 2004 General Social Survey (GSS), 7% of females and 6% of males across Canada who responded to the survey "in current or previous spousal relationships reported having experienced some form of spousal violence during the previous five years". More than half of victims reported experiencing more than one incident.[7] These rates may be much higher in some Saskatchewan communities. As noted by the Aboriginal Inclusion Working Group (see above), family violence is a key issue for Aboriginal communities in Saskatchewan.

There are concerns over the ability of victims to flee violence and over victims' access to justice system remedies to protect them from further violence. Shelters are available in some communities in Saskatchewan, but many victims are far from the nearest shelter. In 2003-04, the last year for which data are available, there were 23 shelters in Saskatchewan, only one of which was on reserve, with the majority located in major urban centres.[8] The ability of victims to seek other resources may also be available unevenly across the province and may be hampered by RCMP referrals policies and other factors.

The Victims of Domestic Violence Act introduced Emergency Intervention Orders and Victim's Assistance Orders,[9] but the courts have made such orders less frequently than

[7] Canadian Centre for Justice Statistics (CCJS), *Family Violence in Canada: A Statistical Profile, 2006* (Ottawa: Statistics Canada, 2006) at 11.
[8] CCJS, "Canada's Shelters for Abused Women, 2003/04" *Juristat* 25:3 (2005) at 5 and 17.
[9] S.S. 1994, c. V-6.02.

when they were introduced. There were 310 Emergency Intervention Orders in their first year of availability, but only 81 issued last year. This may be a result of the reluctance of courts to grant them, the police to seek them or because victims find them unworkable in the context of an ongoing relationship.

Committee Direction

While the Committee noted that family violence may be too big a subject to tackle in its entirety within the Committee's mandate, some recognition of the lack of access to justice in this area was felt necessary. The use, or under-use, of tools such as Emergency Intervention Orders that are already in existence needs to be better understood. It may be that the existing remedies are poorly understood, are not promoted adequately, are too difficult to attain, do not work within the context of an ongoing relationship, or a mixture of all of these concerns.

The Committee also noted the importance of a first response to family violence, particularly in communities that have no or only limited access to shelters. The work of Saskatchewan Towards Offering Partnership Solutions to Violence ("STOPS") should be encouraged. STOPS is attempting to roll out community responder protocols across Saskatchewan. The Committee agreed that all parts of the province, particularly rural and northern areas, require such first responder protocols.

The question of the acceptability of violence was also raised. Other activities, such as smoking or drunk driving, have been made either wholly or partly unacceptable in society at large through social marketing campaigns. It is unclear whether it would be possible to conduct similar campaigns around violence, particularly family violence, or whether this is too big a subject.

Recommendation 5.1

The Committee recommends that the Province and its partners continue to support the development of first responder protocols throughout the province.

Recommendation 5.2

The Committee recommends that Saskatchewan Justice study the use or under-use of legislative remedies and services provided by or in conjunction with the justice system, including victims services, that are part of current responses to family violence to identify gaps and more effective interventions.

(F) Family Justice Services

The Committee looked at access to family justice services and determined that there is a real need to address service problems. Front-end solutions may need to be expanded to allow access to supervised access, access reports and mediation that would not require a

court order. The hubs (discussed above) could include a continuum of services as part of any pilot project.

The Committee identified the flow of services, or the manner in which service needs "cascade" (see full chart below). This flow of services identifies service needs and gaps.

The Committee noted that there must be consideration given for planning to get families out of services. It also indicated that the interconnection of services is crucial and that services would need to be expanded in rural areas. This would permit greater flexibility. Some consideration must also be given to those who do not qualify for legal aid.

The Committee further gave some thought to the range of legal services. The Committee agreed with the Northern Access to Justice Committee and the Unrepresented Litigants Committee and stated that increased funding is necessary for legal aid, particularly to support civil duty counsel. This may include continuing to press the federal government for increased civil legal aid funding.

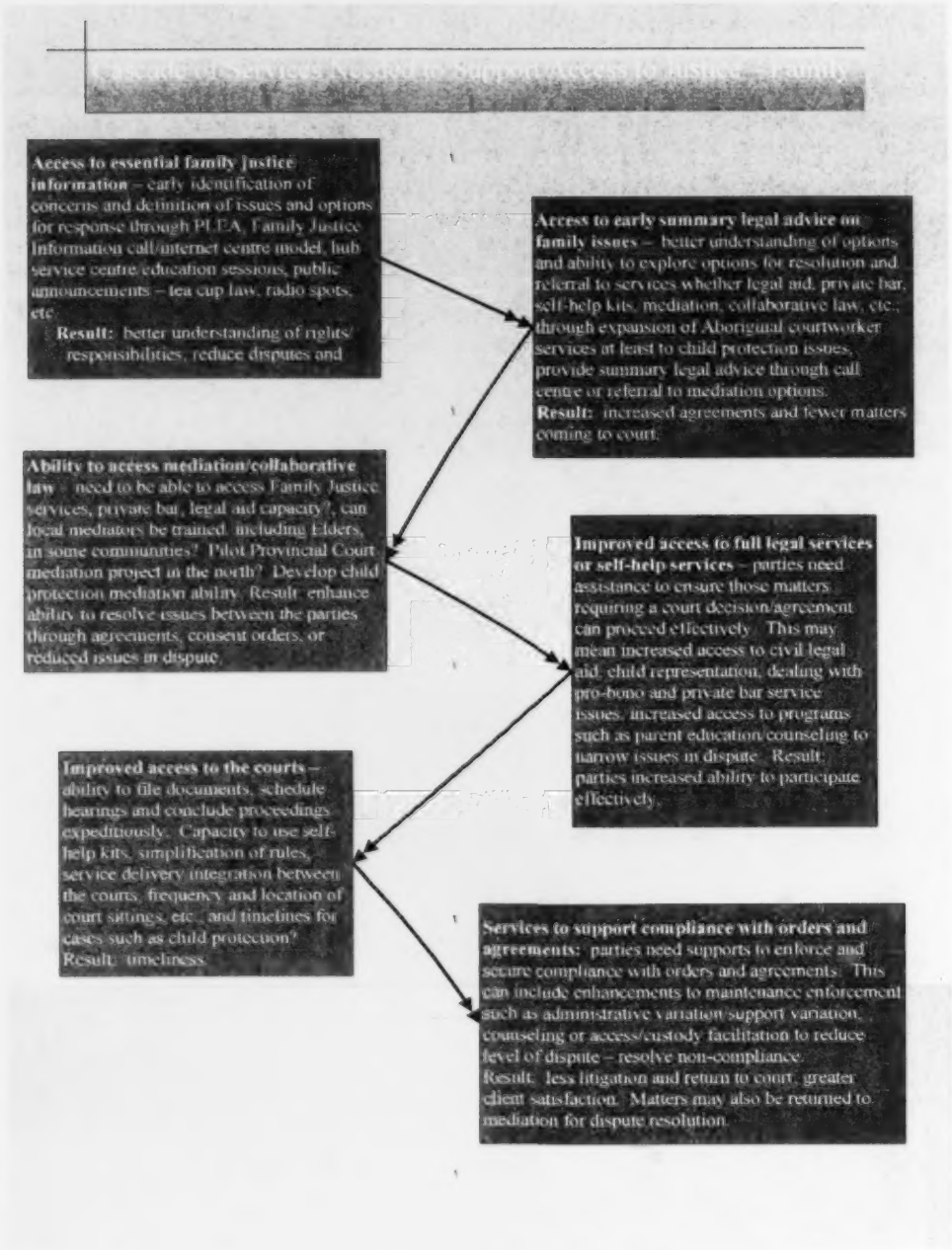
As well, development of services is a key component of creating a more comprehensive and therapeutic response to community legal issues. In the interviews that SAWC conducted it was pointed out that justice services are needed but found lacking in Aboriginal communities. These services include: addiction services, family counselling, legal aid, Aboriginal courtworkers, youth counselling, custody and access supports during and following relationship breakdown and more information and support on child support and spousal support issues.

Recommendation 6.1

The Committee recommends that the Province increase its support for family justice services, especially for front-end services, particularly in northern and rural areas of Saskatchewan that have limited access to such services. Increased services could include:

(a) Expanded mediation capacity;
(b) Enhanced civil family legal aid capacity, including analysis of the Manitoba Child Protection Law Office Clinic model and civil duty counsel for family court;
(c) Expanded Aboriginal courtworker mandate (see Recommendation 2.3);
(d) Improved processes to ensure access to self-help kits, and assistance in completing these kits, to assist in initiating court processes;
(e) Enhanced access to support variation services and enforcement services of the Maintenance Enforcement Office/Family Justice Services; and
(f) Continued simplification of family law forms and the language of court orders, perhaps through the development and use of standard clauses.

To put the family services continuum in context, the following chart has been prepared to identify the cascading nature of services that can assist families to understand and


Access to essential family justice information – early identification of concerns and definition of issues and options for response through PLEA, Family Justice Information call/internet centre model, hub service centre/education sessions, public announcements – tea cup law, radio spots, etc.
Result: better understanding of rights/ responsibilities, reduce disputes and
Access to early summary legal advice on family issues – better understanding of options and ability to explore options for resolution and referral to services whether legal aid, private bar, self-help kits, mediation, collaborative law, etc., through expansion of Aboriginal courtworker services at least to child protection issues, provide summary legal advice through call centre or referral to mediation options.
Result: increased agreements and fewer matters coming to court.
Ability to access mediation/collaborative law – need to be able to access Family Justice services, private bar, legal aid capacity?, can local mediators be trained, including Elders, in some communities? Pilot Provincial Court mediation project in the north? Develop child protection mediation ability. Result: enhance ability to resolve issues between the parties through agreements, consent orders, or reduced issues in dispute.
Improved access to full legal services or self-help services – parties need assistance to ensure those matters requiring a court decision/agreement can proceed effectively. This may mean increased access to civil legal aid, child representation, dealing with pro-bono and private bar service issues, increased access to programs such as parent education/counseling to narrow issues in dispute. Result: parties increased ability to participate effectively.
Improved access to the courts – ability to file documents, schedule hearings and conclude proceedings expeditiously. Capacity to use self-help kits, simplification of rules, service delivery integration between the courts, frequency and location of court sittings, etc., and timelines for cases such as child protection? Result: timeliness.
Services to support compliance with orders and agreements: parties need supports to enforce and secure compliance with orders and agreements. This can include enhancements to maintenance enforcement such as administrative variation/support variation, counseling or access/custody facilitation to reduce level of dispute – resolve non-compliance. Result: less litigation and return to court, greater client satisfaction. Matters may also be returned to mediation for dispute resolution.

respond to family justice issues. Information and early intervention can reduce the demand for legal and court services and result in reduced family trauma, reduced cost to the parties and the justice system and more immediate dispute resolution. Thus, the court system and legal supports are targeted to more complex or controversial cases.

(G) Other Considerations: Youth Access

The Committee also noted the importance of youth access to justice issues, particularly in the context of child protection and youth corrections. The Committee addressed some of these issues as part of the discussion of child protection matters (see above). The Committee, however, recognized that its mandate and membership did not allow for a full and comprehensive exploration of access to justice issues related to youth, particularly in child protection and the youth offender system. Members did note the need for additional research and discussion of these issues in some forum, to be determined by the Provincial Court and Saskatchewan Justice in conjunction with the Departments of Corrections and Public Safety and Community Resources.

Recommendation 7.1

The Committee recommends that the Provincial Court and the Departments of Saskatchewan Justice, Corrections and Public Safety and Community Resources design a forum to review access to justice issues affecting youth, particularly youth involved with child protection and youth corrections.

APPENDIX A

FAMILY AND YOUTH ACCESS TO JUSTICE COMMITTEE MEMBERS

Name	Organization
Betty Ann Pottruff, Q.C. (Chair)	Policy, Planning and Evaluation, Saskatchewan Justice
Chief Judge G.T.G. Seniuk	Provincial Court, Regina
Judge D.M. Ebert	Provincial Court, Wynyard
Madam Justice M-E. Wright	Court of Queen's Bench, Saskatoon
Kelly Soder	Saskatchewan Legal Aid Commission, Saskatoon
Michael Ryan, Q.C.	Saskatchewan Legal Aid Commission, Regina
Greg Walen, Q.C.	Scharfstein, Gibbings, Walen & Fisher LLP - Canadian Bar Association
Sharon Ludlow	Ludlow Law Office - Law Society of Saskatchewan
Lionel McNabb	Family Justice Services, Saskatchewan Justice
Janet Mirwaldt	Department of Community Resources/ Ombudsman
Natalie Huber	Department of Community Resources
Sharon Pratchler, Q.C.	Registrar, Court of Queen's Bench and Provincial Court of Saskatchewan
Charlene LaFleur-Graham	Crown Counsel, Civil Law Branch, Saskatchewan Justice
Lise Lafrenière-Henrie	Family Law Policy, Justice Canada
Max Bilson	Policy, Planning and Evaluation, Saskatchewan Justice

APPENDIX B

FAMILY JUSTICE INFORMATION, SERVICE AND CALL CENTRE WORKING GROUP: DISCUSSION PAPER

I. INTRODUCTION

At its meeting on February 16, 2007, the Family and Youth Access to Justice Committee raised the issue of family justice call and information centres in the context of expanding access to justice in Saskatchewan. The Committee observed that greater access to information concerning family justice processes, as well as referrals to community and legal services, are issues of importance to many people in the province, a point underlined in recent consultations involving Aboriginal women. The Committee also noted that the Commission on First Nations and Métis Peoples and Justice Reform recommended increased telephone access to family law information in its Final Report (Recommendation 6.20).

The Committee struck a working group to develop options around family justice information and call centres in Saskatchewan. The Committee asked the Working Group to consider a variety of options, from full service across the province to more localized and reduced services, and how these could be built onto existing family justice information resources in Saskatchewan. This paper briefly describes three potential incremental options for the development of family justice information and/or call centres for Saskatchewan.

II. ISSUE

- Access to family justice information, referrals and other legal services in Saskatchewan.

III. BACKGROUND

The working group identified the following sub-issues regarding the creation of family justice information and/or call centres in Saskatchewan:

- defining the service needs;
- services that could be delivered;
- lack of access to telephones and/or web service in some parts of the province;
- infrastructure needs in particular parts of the province (e.g. phone lines in the North);
- determining the target locations and in what manner services would be delivered;
- potential volume of service;
- training and recruitment; and

- costs.

(a) Family Justice Information Centres

Though each is differently organized, family justice information centres in Canadian jurisdictions all provide similar services, including information, summary legal advice, access to mediation and other alternative dispute resolution services. They act as hubs for information and referrals to community based and legal services. All such centres in Canada are agencies of a provincial department of justice or attorney general. Some Australian programs are similar to those in Canada, while other Australian centres concentrate on the delivery of mediation services. Family Justice Centres in the United States and United Kingdom deal exclusively with support services, referrals and information for victims of domestic violence.

Saskatchewan – Family Law Information Centre
The Saskatchewan Family Law Information Centre, unlike the other family justice centres described below, is a call centre. It has a toll-free number that can be reached from anywhere in the province and is also able to answer fax or email inquiries. The Centre does not provide legal advice, though it will assist as much as possible just short of providing legal advice. If the Centre is unable to answer a question, members of staff refer the client to another government department or agency, or to legal or community services.

The Centre has no eligibility criteria. It will assist any person, regardless of their income or whether they have already retained counsel. It works hand-in-hand with the Support Variation Project.

The Centre supplies self-help kits for people who wish to represent themselves. The Centre states that it hopes to have "most types of court applications… covered by a specific kit". The Centre assists clients to fill out the forms in the kits, but does not review documents or provide legal advice.

The Centre could be built upon to provide a province-wide family law information centre.

British Columbia – Family Justice Centres
Family Justice Centres are open across British Columbia. B.C.'s model is based on the notion of a "hub" for information and referrals. The term "hub" in this context appears to derive equally from its use in the airline and LAN development industries. It acts both as a place to which clients can go in order to be referred outwards to another location and as a nodal point at which data collects before it is distributed along a network of clients.

The Centres provide information and act as gateways for people who are going through, may go through or have gone through a divorce or separation and who need help in a custody and access, guardianship or child/spousal support matter. Family Justice Centres offer the Parenting After Separation Program and Handbook, which together provide basic information concerning the effect of separation on adults and children, strategies for

coping with separation and material on the basic steps necessary to resolve legal issues. The Centres recommend that all people attend this program and read the Handbook before accessing other services (other than emergency services).

The Centres employ Family Justice Counsellors. The Counsellors are trained mediators who meet with anyone who wishes to address a family law concern. The Counsellors provide:

- emotional support and short-term counselling;
- referrals to emergency and community services;
- information for people without lawyers on how to obtain or change child custody, guardianship, access and support orders or agreements in Provincial Court;
- assistance to those who require help in filling out court forms;
- information about Parenting After Separation; and
- custody and access assessments where ordered by the court.

Counsellors do not provide legal advice. Family Justice Centres do provide referral services for those interested in potentially retaining a lawyer.

B.C. - Supreme Court Self-help Information Centre

As well, in April 2005, British Columbia initiated a one-year Supreme Court Self-Help Information Centre pilot project at the Vancouver Courthouse. The purpose of this pilot project was "to design a self-help centre for unrepresented litigants that would facilitate access to justice by offering advice, information and education about procedures in the Supreme Court of British Columbia". The Centre therefore provides informational materials, assistance with filling out forms and general advice about the court process, divided into brief service (less than 15 minutes) or full service (over 15 minutes). The Centre provides referrals to community support services, duty counsel and pro bono legal services, as well as operating a web portal that receives over 2,500 visits a month. The Centre does not offer legal advice on site.

A recent evaluation of the pilot project found, based on information collected between April 2005 and March 2006, that family law was the dominant legal area about which users wanted information. This was particularly true for full services, where 78% of all visits were family law related. Eighteen per cent of all visits were for full service.

The reason for not having a lawyer tended to be financial: 75% stated that they could not afford a lawyer, while only 11% stated that they did not want one. Users tended to be male (53%), better educated (39% with a college or university degree and 25% with at least some post-secondary), have computer access (68%), earn less than $2,000 a month and speak a language other than English at home (53%). This may be a profile that reflects a high percentage of recent immigrants to Canada and Convention refugees who have not yet been able to secure employment in their profession or field of education.

The evaluation did not perform a full analysis of the Centre's success at addressing its goals and objectives. In general, it indicated satisfaction with the Centre's levels of information and assistance, the efficiencies the Centre generated and the Centre's

collaborative approach with outside partners and service providers. Being able to talk to a person, rather than access a voice over the phone, appears to have been popular with the Centre's users. The evaluation did note that greater access to legal advice continued to be necessary and that an expansion of web-based resources was desirable. The evaluation proposes that legal advice be available at "strategic points" in the process, such as at the start of the process or at particular procedural points, to permit litigants to continue to represent themselves more effectively.

Alberta – Family Law Information Centres
Family Law Information Centres in Calgary and Edmonton provide information on the calculation of child support, how to apply for or change a Queen's Bench Order for custody, access or spousal/child support and how to oppose a Queen's Bench family law application. The Centres have prepared booklets that provide information on the above topics. These booklets are available at all Queen's Bench Clerk's Offices throughout the province. They can also be found online at http://www.albertacourts.ab.ca/familylaw/booklist.htm. Alberta also offers a listing of family law legal resources, which can be accessed online at http://www.albertacourts.ab.ca/familylaw/legal.htm.

Ontario – Family Law Information Centres
Family Law Information Centres (FLICs) are open in all 17 Family Court locations in Ontario. The FLICs provide:

- pamphlets and other publications on issues related to separation and divorce;
- a Guide to Family Court procedures, as well as other information about legal services and the court process;
- information about community resources;
- information about family mediation services; and
- information about parent information sessions.

The FLICs also employ resident Information and Referral Coordinators and an "advice lawyer" from Legal Aid Ontario who provides "summary legal advice". Court staff will also provide information about court processes and court forms.

As well, the Centre for Children and Families in the Justice System in London has developed a wide range of services for families and children who are going through child custody and access, child protection or criminal justice processes. The Centre also provides counselling and referral services and has a large research component. It specializes in research and programs devoted to domestic violence, in particular children who witness domestic violence.

Nova Scotia – Family Law Information Centres
These Centres form a pilot project located at the Family Courts in Sydney and Halifax. The Centres provide information through text publications and Internet access available on-site to members of the public about court processes and mediation services; they also provide referrals to community-based services and supports. The Centres schedule

occasional special information sessions in order to provide information on a particular topic to a number of interested individuals.

Prince Edward Island – Family Law Centre
The P.E.I. Family Law Centre provides information to those with a family law problem, offers parenting resources, provides support to victims and incorporates the Administrative Recalculation Office, the Child Support Guidelines Office and the P.E.I. Maintenance Enforcement Program.[10] In addition, the Family Law Centre employs Family Court Counsellors who offer access to mediation services and who prepare court ordered home and family assessments. The Counsellors also offer support and counselling services to families, as well as more detailed information on divorce and separation.

Outside Canada
Alaska – Family Law Self-Help Centre
The Alaska Court System has established a Family Law Self-Help Centre. The Centre is restricted to use by self-represented people. It provides information through its website and a toll-free hotline. The Centre provides information concerning custody, paternity and child support and referrals for other matters such as legal separation, guardianship, emancipation, adoption and making powers of attorney. The Centre provides a schedule of classes on family law and other legal subjects, as well as information on how to fill out and file court forms, an index of important legal rules and court decisions and a guide to mediation processes.

A similar Family Law Self-Help Centre has also been created in Clark County, Nevada. This Centre, in addition to informational resources similar to Alaska's, has a once weekly "ask a lawyer" program and makes referrals to community resources. The Idaho Supreme Court has a Self-Help Centre similar to Alaska's, but across a wider range of legal subjects.

California – Family Law Facilitators
County Courts in California employ Family Law Facilitators. The Facilitators are lawyers who assist members of the public with their family law issues. The Facilitators provide necessary information, help fill out forms, help calculate support and provide referrals. They do not act as counsel for individuals.

Australia – Family Relationship Centres
In July 2006, 15 Family Relationship Centres were established in locations in all Australian states and both territories. These Centres offer family justice related information and mediation for families going through separation or divorce, as well as referrals to community support services. The Centres also offer individual interviews for separating parents to discuss parenting issues, group parenting programs and joint

[10] The Administrative Recalculation Office can recalculate child support where the original order permits it. The Child Support Guidelines Office provides free information about the federal Child Support Guidelines and how to calculate the appropriate level of support.

sessions with separating parents to help families reach parenting arrangements without going to court. A further 50 Centres will be opened by the end of 2007.

A national Family Relationship Advice Line accompanies the Centres. The Advice Line provides family justice information and advice on parenting issues.

Australia - Community Justice Centres
The Australian State of New South Wales and the Northern Territory have established Community Justice Centres. These centres provide easy access to mediation services, particularly in the area of family law, as well as information about mediation and alternative dispute resolution. They do not have information or other services aimed at wider issues concerning family law or court processes.

The State of Victoria has created a Neighbourhood Justice Centre and Court, which hears local criminal and uncontested family matters. The Centre provides support services and information to victims and others requiring assistance.

Domestic Violence Centres in the United States and United Kingdom
In 2003, the President of the United States initiated a Family Justice Centre Initiative, which established such centres in 12 locations, including Knoxville, San Diego, Monroe LA, Alameda CA and Nampa ID. The Centres offer support services and assistance to victims of domestic violence.

A Family Justice Centre based on the US model has also opened on a pilot basis in Croydon in the United Kingdom. As stated on the Croydon Centre's website:

> The centre addresses the full range of social, welfare, economic, safety, accommodation, criminal and civil justice needs of individuals living with or escaping from abuse.
>
> Importantly it is a safe place where victims of domestic violence, family violence, elder abuse, children and extended families can receive all the help they need to rebuild their lives.
>
> It also plays a role in supporting the success of the courts in Croydon. These are crucial to bringing more abusers to account for their actions.

(b) Call Centres

There is already a modest call centre in Saskatchewan, the Family Law Information Centre (described above). The Saskatchewan Legal Aid Commission also has a *Brydges* Line, which permits it to provide legal advice to any arrested or detained person, whether that person is eligible for legal services or not, 24 hours a day and seven days a week.

According to a report prepared by the Virtus Group for the Saskatchewan Legal Aid Commission, there are five different types of call centre in a family justice context.

These centres range from stand alone entities that provide brief legal advice, to a full legal "hotline" that is attached to an existing service provider and that provides full legal advice services to callers.

There are over one hundred justice-related call centres in the United States. Some are attached to state legal aid and legal service societies, others to legal advocacy services, others to state Bars or other professional associations. Some call centres handle only a very few cases and have only a skeleton staff. The AIDS Legal Hotline in Kansas City, for example, has only 1 attorney on staff and handles only 75 cases a year and the Debt Collection Defense Clinic in Sacramento has only 0.2 Full Time Equivalent staff (FTEs) and deals with about 100 cases a year. At the other extreme are hot lines that have a large staff and handle a large volume of cases. The Coordinated Advice and Referral Program for Legal Services in Chicago, as an example, has 25 part-time staff attorneys (which works out to 8.5 FTEs) that deal with about 20,000 cases a year and the Housing/Consumer/Government Benefits Hotline of Los Angeles County has 9 full-time attorneys and deals with over 50,000 cases annually. The majority of call centres, however, appear to deal with between 1,000-7,000 cases annually and have from 3.0 to 8.0 FTEs.

The U.S. hotlines offer a wide range of services. Some offer advice only to a select group of people, such as the elderly, youth, Native Americans, persons with AIDS or persons with a mental health concern. Others deliver information, referrals and, usually, legal advice to a much wider group of low-income people (though many hotlines do not have eligibility tests, and hence may serve people with higher incomes).

B.C. and Alberta have the largest, province-wide justice call centres in Canada. The B.C. LawLine and LawLink were created to replace legal aid services that the provincial government had cut. LawLine uses the services of three paralegals and five lawyers who handle calls directly in rotation. At the initial stage, the paralegal or lawyer provides the caller with justice system information and determines whether a caller requires legal services. If the caller is then found to require and to be eligible for legal services, he or she may be directed to a LawLine lawyer for legal advice at one of the two levels of legal service.

Over the period the report covers, calls to LawLine lasted 15 minutes on average, although a caller could spend up to 50 minutes waiting to talk to someone. Ninety per cent of calls lasted less than one hour. Fifty-nine per cent of callers accessed legal advice, while 50% were referred to another service.

The Alberta AtLAS system, initiated in early 2005, was a conscious effort to expand and enhance legal aid services to Albertans. It employs three paralegals (called Legal Resource Agents) and two lawyers. Calls go first to paralegals, who provide information and determine the nature of the problem. The paralegal then determines whether the caller should be passed on to a lawyer. A staff lawyer may provide "brief" legal advice of up to 15 minutes, which could be extended for a further 15-20 minutes. Of 1,000 calls in AtLAS' second month, 600 were referred to a lawyer. Of 1,500 calls taken in March

2005, 900 were referred to a lawyer. Fifty per cent of calls to AtLAS lasted longer than 15 minutes.

IV. OPTIONS

The Options outlined below build upon each other, from the simpler Option One through to the more complex Option Three. Prior to implementation, these Options require the development of a sound business plan that would:

- analyse the feasibility of the proposed Options;
- develop a profile of potential users and how many users may be expected;
- match services to need;
- determine where such services should be housed and the appropriate agency to oversee them;
- calculate the resources necessary to reach these users; and
- design a promotional plan to ensure optimal usage of the service.

Without a business plan, and in particular without promotion, it is less likely that any of the options described below will be successful.

Option One: Call centre and Internet portal

This Option focuses on the development of a province-wide family justice call centre and Internet "hub" or portal. Such a call centre would be toll-free, provide callers with basic information concerning family law processes, referrals to outside counsellors or lawyers and potentially summary legal advice for eligible clients. The centre could be modelled on call centres in British Columbia (LawLine) and Alberta (AtLAS). Eligibility requirements would have to be developed in consultation with partners.

One, two or more levels of legal advice could be provided, depending on the level of funding made available. Callers would first speak with a paralegal or other staff member, who would then determine whether the caller needed more than basic information and referrals. The paralegal/staff member would then establish whether the caller meets the eligibility criteria to receive legal services and would then pass eligible callers to a staff lawyer, who would decide what level of legal advice to provide.

This Option could also involve the development of an Internet portal modelled on B.C.'s LawLink. Such a portal would act as a "hub" for information and referrals to other services. Print resources would be available, as well as links to other websites that supply print information. The phone number of the call centre and referrals to other family law related resources would also be provided.

Concerns have been expressed over the need for culturally relevant services and hence the call centre may need to hire staff members who are able to communicate in one or more Aboriginal languages, or other languages where necessary. There may also be other cultural considerations that need to be considered.

In addition, the Northern Youth Strategic Action Plan contains a recommendation concerning the provision of telephone service in the North. At present, SaskTel does not provide public telephone service in many northern communities due to the costs associated with maintaining phones and phone lines. This is a concern that may need to be addressed as part of the development and implementation of any province-wide call centre in order for such a centre to achieve its goals.

Option Two: Family Justice Information and Service Centre(s) in pilot location(s)

This Option builds on Option One. It includes the development of one, two or three Family Justice Information and Service Centres (FJISCs) in addition to the province-wide call centre and Internet portal.

From a kiosk or booth in a courthouse, community centre, band office, service delivery agency or other public location, FJISCs would provide any member of the public with a family law problem information about court processes and the basics of family law, as well as referrals to legal, mediation and counselling services. The FJISCs could employ family justice courtworkers (if their mandate were amended to include family law services) or other trained staff members to speak with clients who have or may have a family justice concern. The courtworkers or staff members would work with clients in person to identify the relevant family law issues, discuss options and assist clients in the preparation of court forms and documents. In addition, family justice courtworkers could accompany court parties to circuit points, which would enable the court to distribute information more widely and offer in-person services in more far-flung locations. This may also enable the development of cultural and language resources for the FJISCs.

Under this Option, the first FJISCs could be located in the North, perhaps La Ronge and/or Meadow Lake, thus targeting areas of the province that may be more in need of additional information and assistance. An additional FJISC could be created in a rural centre. The rural centre would be chosen based on an analysis of the need for such services.

This Option could act as a pilot project for development of FJISCs under Option Three.

Option Three: Family Justice Information and Service Centres province-wide

Builds on Options One and Two, with FJISCs set up across Saskatchewan. The optimal model is, of course, to have a Family Justice Information and Service Centre for every judicial district, a call centre that would provide information, referrals and summary legal advice province-wide, family law courtworkers who could accompany court parties to circuit points throughout the province, and an Internet portal modelled on British Columbia's LawLink.

V. COSTS

We estimate the cost of a province-wide call centre that provides summary legal advice at $750,000 or more annually, depending on volumes of calls and staffing levels. A province-wide call centre without legal-advice-giving capacity could cost $500,000 annually.

An annual cost of $250,000 or more for each FJISC is conceivable. A combination of three FJISCs (two in the North and one in a rural centre) and a province-wide full service call centre could therefore have a total cost of around $1.5 million annually. Two FJISCs and a scaled-down call centre could cost about $1 million annually. The optimal model (as identified above) could cost perhaps $4 million annually, depending on volumes, salary pressures and other factors.

VI. ADVANTAGES AND DISADVANTAGES OF THE OPTIONS

A call centre and Internet portal under Option One could, depending on how it were organized, make information, referrals and summary legal advice available to a wide swath of Saskatchewan people. Option One could be accessible from across the province, be set up in one location (reducing cost), be less costly overall than the other options and would address a recommendation of the Commission on First Nations and Métis Peoples and Justice Reform. The relative advantages of call centres are better understood, as there have been several evaluations of such centres in other jurisdictions, whereas few evaluations of family justice information centres are available. A call centre and Internet portal would not, however, provide access to those without a telephone or Internet connection or permit direct contact and may not create a true community justice centre.

Option Two may potentially address some of the drawbacks of Option One. Pilot FJISCs would target parts of the province with a population most in need of additional information, referrals and advice. Such Centres would allow clients to work more intensively with a resource person to define their family law issues and resolve their problems than may be possible through a call centre and Internet portal alone.

Our analysis is that the target population is best reached through a mixture of telephone, Internet and in-person contact, though the relative worth of each method is unknown. In-person contact may be vital for certain communities. One particularly important role such Centres could have is to provide in-person information, assistance, referrals and some form of advice for clients in parts of the province where in-person contact with legal aid is less likely or for those clients who are not eligible for legal aid. Lack of such in-person contact has been remarked on as a concern in many communities.

The Working Group and Committee have indicated clearly the necessity of developing a business plan that includes a promotion strategy for whichever Option is preferred. Without such a plan and strategy, whatever is built may remain underused.

VII. RECOMMENDATION

We recommend that consideration be given initially to building a Saskatchewan family law call-centre and creating an Internet portal under Option One. We recommend that part of this consideration be whether such a call centre should be built on the existing Family Law Information Centre or housed in another agency, such as the Saskatchewan Legal Aid Commission. Option One would:

- increase access to family law information across the province;
- expand resources that are not dependent on literacy;
- permit one-on-one contact and individualized service;
- allow the provision of more summary legal advice; and
- increase referrals to community service agencies and legal services.

We further recommend that the Province examine the potential for one or two pilot FJISC locations in the North and perhaps one in a rural area at some point in the near future. This could improve access to family justice in areas where it may be most needed and where it is less likely that a client will be able to speak in person with his or her lawyer, as well as target populations most in need of additional information, referrals and advice and permit the evaluation of the FJISCs before they are spread across the province.

In addition, we recommend the exploration of potential partnerships with the Aboriginal community, the private Bar or other interested agencies/groups to participate in the design and implementation of any of the above options. Such partnerships have been explored as part of initiatives in other jurisdictions, including a recently developed Dispute Resolution Office project in Edmonton that includes the participation of senior members of the private Bar to provide mediation services and legal advice to families in dispute one-half day every three weeks. This would have the obvious advantage of permitting close collaboration in the design and delivery of services and may permit costs to be offset partially through partnership with existing services.

APPENDIX C

Access to Justice
Child Protection Subcommittee Report

I. INTRODUCTION

At its meeting on February 16, 2007, the Family and Youth Access to Justice Committee reviewed current issues and concerns related to child protection proceedings across Saskatchewan and how these issues and concerns impact on accessibility to justice by families involved in the child and family services sector.

A subcommittee was struck to review the primary concerns as noted in the meeting and develop recommendations that would put forth a variety of options to address accessibility barriers. This paper briefly describes the noted concerns, potential options to address the concerns and further makes a series of recommendations for the Committee's consideration.

These recommendations were made in context of the mandate of the Access to Justice Committee which requires the Committee to "look for solutions and implementation strategies to address identified problems or issues" and "arrive at recommendations for resolving issues that adversely impact on public access to court-related services".[11]

II. BACKGROUND

The child and family service sector is a complex array of services organized through mandated regional offices, First Nations Child and Family Service Agencies and Community Based Organizations. On average 1,400 children are apprehended and removed from their parent's care every year by regional workers. The majority of these children are brought into care as a result of neglect precipitated by a caregivers' substance abuse. Though many of these children will be returned to the parent, many will remain in care. Of those who remain it is likely the child:

- will be placed with Alternative Care providers;[12]
- will become a temporary or long term ward; and
- will be in care between 3. 2 to 4.7 years before permanency is established (from point of apprehension to order).

The majority of these children and their families will be seen through the courts - either at the provincial level or the Court of Queen's Bench. "Child welfare cases are among the

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[11] Access to Justice in Family/Children and Youth matters discussion paper December 21, 2006.
[12] Alternative Care givers are typically family members who care for a relative child under a foster care agreement or are Persons of Sufficient Interests.

most complicated cases …of all Family Court cases" and "tend to be the most difficult to effectively and efficiently resolve." [13] Delays in resolution often result in delays in ensuring permanency for children and youth. [14] The causes of delays often lie outside the justice system but many involve issues related to accessibility to the justice system.

Two issues were identified as facing the Subcommittee when reviewing child and family services within the court process:

1. accessibility for those in the system; and
2. ensuring that family law is more accessible to the communities.

The Committee further identified a number of concerns related to accessibility. These included:

- representation of children and families;
- role of court workers;
- equitable access and process;
- timeliness of the process (adjournment/trails dates);
- the dual role of child protection workers; and
- alternatives to the traditional court process (mediation/therapeutic court model/talking circles).

III CONCERNS AND RECOMMENDATIONS:

o *Representation of Children*

Section 70 of the *Child and Family Services Act* permits legal counsel to represent any party to a child protection proceeding. This provision appears to leave it open to a justice of the Court of Queen's Bench to consider a child a party to proceedings where appropriate.[15] In the few instances that courts in Saskatchewan have *appointed* counsel for children as part of child protection proceedings, the court (in all of these cases the Court of Queen's Bench) has acted based on an analysis of the purpose for the representation. The goal of representation in child protection hearings is summarized by Smith J. (as she then was) in *Re R.M.S.*,[16] where she states that "[t]he court must rely on the parties to put all of the relevant information before the court and make all of the

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[13] National Council of Juvenile and Family Court Judges, *Introducing Child Permanency Mediation in New York State: Planning and Implementing a Multi-site Pilot Project* (2006) at 5.

[14] Permanency means for the purpose of this paper a plan that will ensure the adequate care of a child and connection to an appropriate adult caregiver, be it familial or other.

[15] Under *The Family Services Act*, S.S. 1973, c. 38, the previous legislation governing child protection hearings, the courts held that legal counsel could not be appointed to represent a child at a hearing. See Hughes J.'s judgment in *Saskatchewan (Minister of Social Services)* v. *Manklow* (1978), 88 D.L.R. (3d) 688, 6 R.F.L. (2d) 268 (Sask. Q.B.). The previous legislation was, however, very different from the current Act, and so the jurisprudence connected with it may no longer be applicable. The argument that a court must act under statutory authority when appointing legal counsel has also been undermined by the argument that the court has an inherent *parens patriae* power to do so.

[16] (2001), 212 Sask. R. 276, SKQB 492 (Sask. Q.B.).

relevant arguments to the court".[17] Relevance is the key consideration. If the Department or counsel for a person having a sufficient interest, or indeed counsel for the parent(s), are able to put before the court all relevant information and make all relevant independent arguments, then the court need not necessarily hear from other counsel.

The Office of the Children's Advocate of Saskatchewan has expressed concerns over conflicts between sections 4 and 29 of the CFSA and Article 12 of the UN *Convention on the Rights of the Child*.[18] The courts have not yet been confronted with this issue and it is unclear whether a conflict exists, or whether these provisions are complementary. It appears that sections 4 and 29 of the CFSA may permit a greater "voice" for children in child protection proceedings as contemplated by Article 12, though how a child's "voice" may be expressed is open to debate.

In response to the Children's Advocate's concerns and a series of recommendations, Saskatchewan Justice developed a position paper (shared with the Subcommittee) putting forth a series of options that if accepted would address the concerns respecting "bringing the child's voice" into court proceedings.

As stated in *Issues and Option concerning the "Voice of Children in Child Protection Hearings* it is recognized that "it is an element of procedural fairness that independent legal counsel represent children where appropriate, or that they (children) otherwise have their voices heard in an appropriate manner based on the circumstances of the case."

The position paper goes on to recommend that bringing the child's voice into the court proceedings could be accomplished through the creation of a menu of options designed to fit the case circumstances that would include:

> "[L]egal counsel; mediation processes; Aboriginal conferencing; independent assessments; Children's Voices Reports; structured interviews; written communications; or a combination of these processes. Criteria for the appropriate manner to present a child's "voice" would need to be developed in consultation with the key interested partners (e.g. the courts, departments, the Bar, Aboriginal child and family service agencies)."

- ***Children's Voices Reports in Child Protection Proceedings:***

In a recent reported child protection case, Chicoine J. requested the production of a Children's Voices Report as part of the proceeding, in order to "determine the wishes of the older child".[19] The social worker engaged by Family Justice Services to prepare the report interviewed both the older child, D.T.L. (12 years old) and the younger child, A.P.L. (8). While the court did not give as much weight to the wishes of the eight year-

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[17] *Ibid.* at para. 9.
[18] State-Imposed Limitation, *supra* note 3 at 12.
[19] *Re L. (D.T.)*, [2007] SKQB 63 at para. 60, CarswellSask 72 (Sask. Q.B.).

old child, the court accorded a great deal of weight to the wishes of the older child, and the court based a portion of its judgment on the Children's Voices Report.[20]

The Children's Voices Reports were first created to address the backlog of custody and access assessments but, more importantly, to ensure that the wishes of the child were before the courts. The Children's Voices Reports have been received very positively by the courts. Their benefit is that an independent party provides a consistent product and the courts receive the reports in a timely manner. However, moving the program to now include child welfare cases may not be feasible.

The current mandate of the Family Justice Services may not be sufficiently broad to accommodate the requirements of producing such assessments for child welfare court proceedings. The reports, as currently implemented, have limitations if they were to be set into the child protection context. The reports do not look at intergenerational issues. They do not include a comprehensive family assessment. There is no direct discussion about child abuse allegations or if the child was exposed to family violence. They do not ask the children where they want to live. They are very time limited (i.e. they are turned around to the court in 4 to 6 weeks) and therefore the assessor spends only 6 to 10 hours with the child. In addition the costs associated with the reports will impact on DCR's and FNCFS' already limited resources.

- ***Representation of Families.***

The vast majority of parents will appear before the courts at some point in the child protection court process unrepresented.[21] Many parents, particularly those whose matters are dealt with through the Provincial Court, appear to rely heavily on laypersons to inform them of their rights,[22] the court process and the consequences that any court decision may have upon their parental rights.

Subcommittee members noted that unrepresented parents appear to be a larger issue when matters appear in the Provincial Court as opposed to the Court of Queen's Bench. One Subcommittee member noted that parents often rely on their assigned child and family services worker to provide them with information as to court processes, their rights and the implications of any decisions rendered. Often it appears that many parents, lacking a neutral third party to inform them or safeguard their rights, may be agreeing to plans that they do not fully understand. It was also noted that in communities served by the Provincial Court, there appears to be a disconnect between the number of applications considered by the Provincial Court and the number of families involved in the child and family services system in the community.

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[20] *Ibid.* at para. 79.

[21] It is suspected that 50 to 90% of parents appear at sometime through the court process (apprehension to granting of the order) unrepresented by legal council.

[22] Laypersons: Those not trained as lawyers or paralegals or court workers.

Accessibility to justice in child and family service matters requires that the parent(s) be able to access not only, when required, legal representation, but in addition information about the court process, their rights and assistance in accessing needed services.

Two programs/models were considered by the Subcommittee as holding some promise to address accessibility barriers:

Manitoba's Child Protection Law Office:

Legal Aid Manitoba provides specialized services to families that qualify for legal aid and that are involved in child welfare court proceedings. Legal aid lawyers will represent both parents and children over the age of 12. All legal aid offices provide duty counsel at the child and family docket courts that may occur in urban, rural and First Nations communities. Legal Aid lawyers, who are responsible for court circuits, will also act as duty counsel in the smaller circuit communities for child and family service matters.

In Winnipeg, Legal Aid Manitoba has established a specialized clinic called the Child Protection Law Office. Again, specialized services are provided to families who qualify for Legal Aid and/or to youth over the age of 12 involved in child welfare court proceedings. The Child Protection Law office is staffed by two lawyers, two social workers and two paralegals. The social work positions are a recent addition and were introduced as a means to support families in gaining access to needed resources. The goal of the social work staff is to assist families to meet the required conditions of the plan as outlined to them by the agency or ordered by the courts. Social work staff also assists parents in understanding the court's role, their (the parents') responsibility in the process and the consequences of not following through as directed by the court. The workers also provide information to the court as to the progress of the family/parent.

Saskatchewan Courtworker Program:

The Subcommittee noted that Aboriginal courtworker program is available for criminal matters, but there are no parallel programs in the family system. The Subcommittee further commented on the positive impact these programs currently have.

Lynn Larose, Executive Director of the Métis Family and Community Justice Services Inc, provided the Subcommittee with some brief preliminary information about the agency's courtworkers program in Saskatoon. Ms. Larose stated that approximately 10 to 15% of callers are requesting information about family court. The court program currently only works in criminal court but will provide referral information to those who have questions about family court (typically refer persons to lawyers). Ms. Larose stated that an expansion of the courtworker's role into the family courts would be appropriate; however, consultation should first occur in the communities in order to determine if the communities would be supportive.

- ***The Current Process:***

Subcommittee members noted that child and family matters are often before the courts for protracted periods of time; timelines are not strictly adhered to, particularly in the Provincial Court; numerous adjournments are requested and often granted; and weeks of already limited court time and resources are required when matters are set for trial.

Subcommittee members noted the potential existence of differential practice between judicial centres. Saskatoon DCR Counsel has introduced a "two chamber system" along with new forms (with the consultation and approval of the Saskatoon Courts) in order to streamline the workload. Such innovations have not been expanded or are even known to other regions.

Subcommittee members noted that a number of issues with respect to the court process could be resolved if there were an opportunity to bring together those who work within the court system (i.e. FNCFS Agencies, DCR, Justice, the Courts, Legal Aid and independent counsel) to identify current issues and develop a more uniformed response to procedural issues that may act as barriers. As well, new and innovative processes could be discussed and implemented across regions or judicial centres.

- ***The Dual Role of Child Protection Workers:***

The debate over the dual role and responsibility of child protection workers has been the subject of extensive research and debate within the child and family service system and the social work profession. The complexity of child protection work and the duality of roles within the single functional position of a child protection worker cannot be adequately addressed by the Family and Youth Access to Justice Committee or the Subcommittee. As well, how DCR or FNCFS agencies operationally organize their work is beyond the mandate and scope of the Committee.

It was noted by DCR that though case workers are provided with core training that touches on the court process, additional training may be needed. Recently, the Departments of Saskatchewan Justice and Community Resources have undertaken to develop four training modules for DCR supervisors and lawyers in two regions (one urban, one rural). The training will concentrate on the interconnection between the court process and the case management process and focus on the DCR supervisor's role in both.

- ***Alternative Court Models:***

The Subcommittee had noted and discussed the benefits of therapeutic courts, their challenges and the possibility of expanding this model in child welfare cases. It was acknowledged that many families who appear in child welfare proceedings have addictions issues and or domestic violence issues. Currently domestic violence courts operate in North Battleford and Saskatoon. Saskatchewan Justice is looking to introduce

a domestic violence court in Regina. The Subcommittee was also informed that Centre for Court Innovations (www.courtinnovations.org) has written extensively about therapeutic courts. The Centre has noted one court program called the Manhattan Family Treatment Court as being an effective model to adjudicate child welfare cases.

Therapeutic Courts

Therapeutic or community courts have taken hold in primarily American jurisdictions and vary across jurisdictions, depending on the focus (e.g. drug treatment, domestic violence, mental health, minor criminal), but all enable closer collaboration among service providers and stress a multi-disciplinary, problem solving approach to addressing the underlying issues of the cases appearing in the court.

In 1997, an integrated approach was developed in Manhattan to address the overwhelming number of children entering into foster care as a result of parental drug abuse. At that time, it was estimated that the vast majority of suspected child abuse and neglect cases in New York State involved a substance-abusing parent. Children were staying in foster care for protracted periods of time (4.5 years); cases remained before the courts with little or no progress made towards achieving permanency for a child. Parents would be ordered into drug treatment, but either would not attend or were unable to secure treatment services in a timely manner. Relevant information with respect to the parent's progress was not readily known to the courts and the adversarial nature of the court process discouraged mediated resolution to cases. Traditional family courts had "three sides-the respondent, the child" and the child welfare agency, "all of whom had their own lawyers and agendas".[23]

Recognizing that the majority of parents were substance abusers it was decided to integrate a drug treatment court model into the unified family court model. The Family Treatment Court uses a "one family-one Judge" approach and attempts to deal with the multitude of issues families face. In the Family Treatment Court parents must admit their addiction as well as admit that their addiction has contributed to their incapacity to parent. The children remain in care until the parent completes a drug treatment program. However, being drug free is only one measure the Court uses to determine parental suitability. Often parents must also complete other required programming (parenting classes, anger management) must secure adequate housing and a source of income.

As in all drug treatment courts, relapse is not an admission of failure but is expected and planned for.

The Family Treatment Court is well supported and all parents are clinically screened for admission through the Court's on-site Clinical Office, which is staffed by psychologists and social workers. The Clinical Office is responsible for developing the plan, coordinating the services and monitoring and reporting back to the Court on the progress of the parent. The Court also monitors the children's progress in foster care, ensures their

[23] Wolf, R. (2000) *Fixing Family Courts*. Retrieved from www.courtinnovations.org

needs are being met and coordinates any treatment services the child requires with the child caring agency.

A key characteristic of the Court is that it offers family group conferencing (FGC). FGC has three goals:

- to identify ways to support the parent's ongoing sobriety;
- to develop family support for speedier reunification; and
- if required to look to family as a resource of permanency planning for a child.

In the first three years, the Court worked with 243 families and 453 children. The Court has estimated that 68% of parents appearing in the Court have complied with court orders and the average length of foster care for the children involved was reduced to 11 months.

Child Permanency Mediation Programs

Not all children can return home and when this occurs permanency plans must be implemented. The New York courts have a role in determining permanency for the child. In addition to the Family Treatment Court, New York State has introduced the Child Permanency Mediation Program (http://www.nyspcc.org/programs/mediation.htm). The program is an alternative form of dispute resolution used in the permanency phase of child protection court proceeding. The children are at a stage in the process whereby a decision must be made about a permanent home. Mediation provides the forum through which parents, child welfare agencies, family members and others can explore the options and find mutually acceptable solutions that will either:

1. facilitate a return to the familial home; or
2. expedite their placement in an adoptive or other permanent home.

Alternative Dispute Resolution in Saskatchewan

Section 15(1) of the CFSA allows for mediation to be used in the provision of family services. Given the wording of s. 15, it appears that mediation alternatives were meant to be provided prior to an application to the court for a protection hearing.

Across the province, alternative dispute resolution programs have not been fully operationalized into child welfare court proceedings. In Saskatoon, a pilot project has been developed called Opikinawasowin (Opik) for resolution of child protection matters. Under this model, a hearing is adjourned under s. 34 of the CFSA, and an interim order is issued under s. 35 that defines the court's expectations of the general parameters and direction of the process, as well as a time frame.[24] The matter is then referred to a council of three Aboriginal Elders to mediate the matter and provide recommendation to the court.

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[24] For an example, see *Re J.D.* (2003), 236 Sask. R. 78 at para. 3, SKQB 309 (Sask. Q.B.) [hereinafter *Re J.D.*].

Generally, the Elders design a process with the specific family and cultural background in mind. An Opik generally happens quickly after the order is issued (one week is common) and last for three days. Legal counsel and other court personnel, including the presiding justice, may attend if invited by the Elders, but typically do not do so. Opiks are held in a "positive" space, such as Wanuskewin Heritage Park in Saskatoon.

The degree of involvement of children depends on the decision of the Elders, though they are generally present and participate openly. Family and community involvement are encouraged. There is a sense that the degree of involvement of the wider group the better and the greater the feeling of all parties that they are "being heard". In at least one Opik, all the brothers and sisters of the affected children were present. They related to the affected child and treated the elders as "grandparents".[25]

As Wright J. wrote in *Re J.D.*:

> The flexible format and reduced formality of the Opikinawasowin provides the Elders with the opportunity to craft a process responsive to the needs of the individual parties, including the children. Participants who may be intimidated by the adversarial atmosphere of the court may engage in the process more fully under the guidance of the Elders enabling a full canvassing of the concerns and proposed care arrangements.[26]

Opiks have been performed in Saskatoon, Prince Albert and Pinehouse. Outcomes measured by the recovery of the parents have generally been positive, though no formal evaluation has been performed on the Opik Model and no evaluation framework is in place.

Recently DCR has committed to further explore how the Department could support the Opik and other alternative dispute resolution processes and will be conducting a review. The review will begin in April and conclude with a final report to be submitted to the department by July 31, 2007.

IV Recommendations:

Given the extent of the subject matter it was not feasible for the Subcommittee to adequately explore options to present to the larger committee. Recommendations were also difficult to develop that were not operational in nature:

1. The Access to Justice Committee endorse the development of a menu of initiatives that will adequately ensure a child's voice is considered in the child and family services court process as outlined in Saskatchewan Justice's *Issues and Option concerning the "Voice of Children in Child Protection Hearings*.

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[25] *In the Matter of S.A.M.* (October 13, 2006) Saskatoon F.S.M. No. 12 of 2005 – J.C.S. at 2-3 (Sask. Q.B.).
[26] *Ibid.* at para. 7. See also para. 11.

2. The Access to Justice Committee recommends that consideration be given to expand the courtworker program into the family court system.

3. The Access to Justice Committee recommends that consideration be given to introducing a Child Protection Law Office Clinic (Manitoba model) through Saskatchewan Legal Aid.

4. The Access to Justice Committee recommends that Saskatchewan Justice and Community Resources explore ways that those who work within the court system (i.e. FNCFS Agencies, DCR, Justice, the Courts, Legal Aid, independent counsel) can regularly be brought together to identify current issues and develop a more uniformed response to procedural issues that may act as barriers.

5. The Access to Justice Committee recommends that Saskatchewan Justice and Community Resources explore ways in which alternative dispute resolution models could be introduced into child and family court proceedings.

6. The Access to Justice Committee recommends that Saskatchewan Justice and Community Resources explore the feasibility of introducing a therapeutic court model into family court for child and family service cases.

APPENDIX D

ACCESS TO JUSTICE – Family Law in Saskatchewan

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May 2007

INDEX

I. Introduction ---------- 3

II. Improving Access to Justice ---------- 3

III. Current Resources ---------- 4

IV. Advertising Our Services ---------- 6

V. Future Possible Expansion of Services ---------- 7

I. INTRODUCTION

Right Honourable Beverley McLachlin, P.C. at the Empire Club of Canada in Toronto gave a presentation on March 8, 2007 regarding the challenges we face in Canada with respect to our justice system.

One such challage was identified as that relating to Access to Justice. The following is excerpted from her presentation:

> "The most advanced justice system in the world is a failure if it does not provide justice to the people it is meant to serve. Access to justice is therefore critical. Unfortunately, many Canadian men and women find themselves unable, mainly for financial reasons, to access the Canadian justice system. Some of them decide to become their own lawyers. Our courtrooms today are filled with litigants who are not represented by counsel, trying to navigate the sometimes complex demands of law and procedure. Others simply give up. Recently, the Chief Justice of Ontario stated that access to justice is the most important issue facing the legal system."
>
> ...
>
> "To add to this, unrepresented litigants – or self-represented litigants as they are sometimes called – impose a burden on courts and work their own special forms of injustice. Trials and motions in court are conducted on the adversary system, under which each party presents its case and the judge acts as impartial decider. An unrepresented litigant may not know how to present his or her case. Putting the facts and the law before the court may be an insurmountable hurdle. The trial judge may try to assist, but this raises the possibility that the judge may be seen as "helping", or partial to, one of the parties. The proceedings adjourn or stretch out, adding to the public cost of running the court. In some courts, more than 44 per cent of cases involve a self-represented litigant. Different, sometimes desperate, responses to the phenomenon of the self-represented litigant have emerged. Self-help clinics are set up. Legal services may be "unbundled", allowing people to hire lawyers for some of the work and do the rest themselves.

II. IMPROVING ACCESS TO JUSTICE

Family Justice Services representatives have met to discuss possible ways to improve access to justice for the people of Saskatchewan. Preliminary consultation has taken place with consultation from Sharon Ludlow, LL.B., a member of the private bar. The following constitute an initial list of possible changes that might assist the public gaining access to justice in the sphere of family law:

a) Simplification of forms in the Family Law Division of the Court of Queen's Bench – Discussion has arisen regarding the complexity of the forms currently required by the Rules of Court. A streamlining of Financial Statements, and reducing redundancy of information in Child Support Information Sheets and Child Support Calculations was suggested. Also, creating court forms using plain (non-legal) language may assist individuals with no background in legal terminology or those with limited education and/or reading ability;

b) Utilizing the Local Registrar as a source of referrals to the Family Law Information Centre at the earliest instance;

c) Greater access to Chambers in northern Saskatchewan and remote locations, possibly through travelling QB judges;

d) Court decisions rendered in lay terminology to ensure outcome is understood by self-represented litigants;

e) Training of non-lawyers in smaller judicial centres and/or in remote areas to assist in filling out court forms (train the trainer model);

f) Court Worker programs instituted in Family Law Division courts paralleling programs already in place in Provincial Court;

g) Greater access to Alternative Dispute Resolution models for family law proceedings;

h) Legal information sessions for self-represented litigants;

i) Development of internet family law information website, initially as an information resource, and possibly to become interactive in the future.

III. CURRENT RESOURCES

Some initiatives have been undertaken by Family Justice Services to assist individuals with family law matters. For a good number of parents in Saskatchewan who receive or pay child support, making changes to the order or agreement providing for such support is very difficult. The cost of bringing the matter to court with the help of a private lawyer may be beyond their means, or they don't qualify for Legal Aid. For others who qualify for Legal Aid, they may not be able to access the service fast enough. Geographic barriers also create an obstacle to accessing justice.

Saskatchewan Justice responded to these needs in 2005 by creating the Family Law Information Centre and Support Variation Project. This project:

- Assists parents with limited income who have a child support order or agreement registered in Saskatchewan and who want to vary that order or agreement;
- Provides resources and information to the public in the area of child support and family law;
- Assists parents in completing self-help variation kits.

a) Family Law Information Centre

Currently the Family Law Information Centre (F.L.I.C.) and Support Variation Project (S.V.P.) is staffed by one full-time lawyer and one support staff. While the F.L.I.C. is located in Regina, there is a toll-free phone number which ensures that anyone in Saskatchewan can contact the office for their family law inquiries.

The F.L.I.C. provides legal assistance (not legal advice) to anyone who inquires. This is irregardless of income, location of residence, or whether an individual is represented by counsel. While this information is usually in the realm of family law, other related matters may also be dealt with. Where necessary, the F.L.I.C. can provide contact information for other government departments where they may be better suited to assist the individual.

A large proportion of people who contact the F.L.I.C. are self-represented litigants or are contemplating representing themselves in upcoming litigation. This office is able to advise individuals about the law and Rules of Court to ensure that they have a rudimentary knowledge of court practice and procedures. They also provide a series of self-help kits for people who wish to represent themselves in court. Currently, the list of self-help kits only covers certain specific scenarios. As of May 16, 2007, this includes:

a) Child or Spousal Support Variation;
b) Custody or Access Variation;
c) Preparing a Separation Agreement;
d) Initial Application for Custody, Access, and/or Child Support;
e) Initial Application for Custody, Access, and/or Child Support by party of sufficient interest;
f) Preparing a Consent Order;
g) Interj-jurisdictional Support Variation of a Divorce Act Order;
h) Interjurisdictional Support and Variation (ISO);
i) Variation of a Child Support Agreement.

b) Support Variation Project

The Support Variation Project (S.V.P.) assists eligible parties in making changes to existing child support orders or agreements. There are some admission criteria, which are as follows:

- income threshold test
- requires both parties to voluntarily agree to entering the program
- either party can choose court option at any time
- court order cannot be under appeal
- no previous SVP or court variation application in last 6 months
- no domestic violence
- complete disclosure as provided by the Court of Queen's Bench Rules

As with the mandate of the F.L.I.C., the S.V.P. does not provide legal advice, but only assists with facilitating support variation. Parties within the program can retain counsel to receive legal advice. With any agreement that is reached, parties are requested to obtain independent legal advice, which can be waived in certain circumstances

In the S.V.P. there are limits to confidentiality priviledges, that are explained to the participants. Low-level mediation is provided, though parties can be referred to Dispute Resolution Office for further mediation. While there are no costs for eligible applicants, the parties will be responsible for court filing costs and costs of independent legal advice.

c) Access Faciliation Project

The Access Facilitation Project is a pilot project, operating with funding from the federal government, in the judicial centre of Saskatoon to provide low-income parents with assistance in developing appropriate child access arrangements. The program is administered through the Dispute Resolution Office, although the lawyer from the Family Law Information Centre takes the role of giving a legal information session to eligible

applicants to ensure that participants are aware of their legal options. The project is designed to encourage non-adversarial resolution of conflict concerning access.

Participants are required to attend the Parenting After Separation and Divorce information session. They will then be able to meet with a mediator for up to four sessions, free of charge.

Judges in Saskatoon have begun referring parties to the Access Facilitation Project in an attempt to provide an alternative to traditional litigation.

IV. ADVERTISING OUR SERVICES

The accessibility of the F.L.I.C. and S.V.P. relies upon making the public aware of these programs. Many individuals who obtain assistance from the office are often surprised that such services exist and wished they had known about them earlier.

It is common for individuals to be referred to the F.L.I.C. from:

a) Maintenance Enforcement Office;
b) Courts of Queen's Bench;
c) Legal Aid;
d) Sask Justice Parent Education Programs;
e) Dispute Resolution Office.

To ensure that we continue to receive a steady stream of referrals, these organizations should be constantly updated with any new developments. A business card for F.L.I.C. is in the process of being made to be provided to various organizations for ease of referral. In addition to the above organizations, the following should also be informed or reminded of our services:

a) All QB and provincial courts;
b) RCMP and city police forces;
c) All legal aid lawyers;
d) All private lawyers;
e) Department of Community Resources;
f) media outlets –e.g. newspapers, internet

In the future, it is anticipated that the information sent to the various organizations would be followed up by presentations by the F.L.I.C. lawyer, to again advertise our services, and to answer any questions that may arise.

V. FUTURE POSSIBLE EXPANSION OF SERVICES

a) Guide to Family Law

In the future, the F.L.I.C. would like to work towards creating a comprehensive guide to Family Law Court proceedings. Individuals are often willing to learn court procedures and rules, but are frustrated by the difficulty in finding relevant information. This guide would include:

1) all relevant Rules of Court and other applicable laws,
2) all relevant form templates,
3) guide written in plain (i.e non-legal) language.

Each form template would contain a step-by-step guide, and an electronic on-line or CD-ROM version might also be created. Ideally, a series of questions might be asked in the electronic format, which would then automatically link to the required court forms. Each form might then have a specific questionaire presented in non-legal language, leading to a final product which complies with the requirements of the Rules of Court.

b*) Form Preparation Assistance*

In Regina, individuals can come to the F.L.I.C. for assistance in preparing court forms. In other judicial centres, people can usually only obtain this help by telephone or e-mail from our Regina office. The University of Saskatchewan Pro Bono Students Association began assisting self-represented FLD litigants in Saskatoon this year. The F.L.I.C. hopes to foster a working relationship with the U of S students and work together to bettering the service provided to the public. In the future, it might be helpful to aim for providing in-person assistance to self-represented litigants in all judicial centres.

c*) Expansion of Family Law Information Centre*

The F.L.I.C. anticipates an increase in telephone call volume via more referrals from outside sources. This may create the need for an expansion at the F.L.I.C. in Regina, and possibly establishing other call centres. Becoming too busy would be a problem that we would welcome, as it would enable us to expand our sphere of assisting the public.

d*) Family Law Informational Sessions*

To reach individuals in judicial centres other than Regina, the F.L.I.C. might consider sending its legal counsel to other centres to provide a family law informational class. This might occur on a monthly, bi-monthly, or quarterly basis. The course might be available free of charge or for a modest fee. Self-represented litigants could be referred to the

course from QB judges where knowledge of the law or court procedure might be beneficial.

e) Preparing further Self-Help Kits

On a more short-term basis, the F.L.I.C. will continue to develop additional self-help kits to deal with other specific scenarios. As self-represented individuals ask for assistance with different court applications, the F.L.I.C. will attempt to prepare guides and forms to help in the court process.

f) Support Recalculation Service

The Province of Saskatchewan is currently examining other jurisdictions and their Child Support Recalculation services and pilot projects. If implemented, an automatic support recalculation service might alleviate some of the necessity to bring matters to court, and correspondingly limit the number of self-represented litigants.